AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

4–3–01 Tuesday
Vol. 66 No. 64 April 3, 2001
Pages 17621–17774

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $638, or $697 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $253. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $9.00 for each issue, or $9.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WASHINGTON, DC

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

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

RESERVATIONS: 202–523–4538

Printed on recycled paper.

Contents

Federal Register

Vol. 66, No. 64

Tuesday, April 3, 2001

Editorial Note: In the **Federal Register** of April 2, 2001, all the page numbers were inadvertently omitted from that issue's table of contents. A corrected table of contents for the April 2, 2001 issue appears after the Reader Aids section at the back of today's **Federal Register.**

Agriculture Department
See Forest Service

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17712–17715
Grants and cooperative agreements; availability, etc.:
Nation's public health infrastructure improvement; applied research, training, and technical assistance, 17715–17718

Children and Families Administration
NOTICES
Reports and guidance documents; availability, etc.:
Head Start programs; status of children; biennial report to Congress (1999 FY), 17718

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration

Defense Department
RULES
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings, 17753–17756
Small entity compliance guide, 17756–17757
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; withdrawn, 17757–17760
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17688
Submission for OMB review; comment request, 17688–17689
Meetings:
Science Board, 17689

Defense Nuclear Facilities Safety Board
NOTICES
Recommendations:
Savannah River Site, SC; high-level waste management, 17689–17692

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17692–17693

Energy Department
See Energy Efficiency and Renewable Energy Office
See Energy Information Administration
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Fire Safety and Preparedness Commission, 17693–17694

Energy Efficiency and Renewable Energy Office
NOTICES
Meetings:
State Energy Advisory Board, 17694

Energy Information Administration
NOTICES
Meetings:
American Statistical Association Committee on Energy Statistics, 17694–17695

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 17634–17638
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Illinois and Missouri, 17647–17657
Air quality implementation plans; approval and promulgation;
Illinois, 17641–17646
Pennsylvania, 17647
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17699–17706
Meetings:
Gulf of Mexico Program Policy Review Board, 17706
Reports and guidance documents; availability, etc.:
Wet milling; impact on Cry9C protein content in food; agency analysis, 17706–17708
Superfund; response and remedial actions, proposed settlements, etc.:
Lenz Oil Services, Inc., Site, IL, 17709–17710
Superfund program:
Prospective purchaser agreements—
Metcoa Radiation Site, PA, 17708–17709
Toxic and hazardous substances control:
Interagency Testing Committee report—
Receipt and comment request, 17767–17774

Export Administration Bureau
NOTICES
Meetings:
Information Systems Technical Advisory Committee, 17683

Federal Aviation Administration
PROPOSED RULES
Airworthiness directives:
Bell; withdrawn, 17641

Federal Communications Commission
RULES
Common carrier services:
Digital television broadcasting—
740-806 MHz band; conversion to digital television, 17638–17639

Federal Deposit Insurance Corporation
RULES
Federal Deposit Insurance Act:
Unsafe and unsound banking practices—
Deposit broker notification, recordkeeping, and reporting requirements; rescission, 17621–17622

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Escatawpa Funding, L.P., et al., 17697–17698
Environmental statements; notice of intent:
Columbia Gas Transmission Corp., 17698–17699
Applications, hearings, determinations, etc.:
Electric Power Supply Association et al., 17695
Great Lakes Gas Transmission L.P., 17695
Gulf South Pipeline Co., L.P., 17695–17696
Mojave Pipeline Co., 17696
Natural Gas Pipeline Co. of America, 17696
Trunkline LNG Co., 17696
Westar Generating, Inc., 17697

Federal Housing Finance Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17710–17711

Federal Motor Carrier Safety Administration
NOTICES
Motor carrier safety standards:
Driver qualifications—
Branam, Jerry T., et al.; vision requirement exemptions, 17743–17747

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 17711
Formations, acquisitions, and mergers, 17711–17712

Federal Trade Commission
RULES
Practice and procedure:
Technical amendments, 17622–17633

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 17728–17729
Marine mammal permit applications, 17729

Food and Drug Administration
NOTICES
Human drugs:
Orphan drug and biological designations; cumulative list, 17718–17719
Meetings:
Bovine spongiform encephalopathy and transmissible spongiform encephalopathies; consumer briefing, 17719

Forest Service
NOTICES
Meetings:
Willamette Provincial Advisory Committee, 17683

General Services Administration
RULES
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings, 17753–17756
Small entity compliance guide, 17756–17757
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; withdrawn, 17757–17760

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
See Public Health Service
See Substance Abuse and Mental Health Services Administration
PROPOSED RULES
Medical care and examinations:
Indian health—
Joint Tribal and Federal Self-Governance Negotiated Rulemaking Committee; meetings, 17657

Health Care Financing Administration
PROPOSED RULES
Medicaid:
Inpatient and outpatient hospital services, nursing facility services, intermediate care facility services for mentally retarded, and clinic services—
Upper payment limit transition period, 17657–17659

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17748–17751

International Trade Administration
NOTICES
Countervailing duties:
Pasta from—
Italy and Turkey, 17683–17684
Export trade certificates of review, 17684

International Trade Commission
NOTICES
Meetings; Sunshine Act, 17737

Labor Department
See Pension and Welfare Benefits Administration
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Employment Standards et al., 17761–17765

Land Management Bureau
NOTICES
Environmental statements; notice of intent:
Nellis Air Force Range, NV; resource plan, 17729–17730
Oil and gas leases:
New Mexico, 17730–17731
Resource management plans, etc.:
California Desert Conservation Area, CA, 17731

Minerals Management Service
NOTICES
Outer Continental Shelf operations:
Oil and gas lease sales—
Restricted joint bidders list, 17731

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings, 17753–17756
Small entity compliance guide, 17756–17757
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; withdrawn, 17757–17760

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Hankook Tire Manufacturing Co., Ltd., 17747

National Institutes of Health
NOTICES
Grants and cooperative agreements; availability, etc.:
Obesity and insulin resistance; novel candidate genes identification using global gene expression profiling, 17719–17720
Inventions, Government-owned; availability for licensing, 17720–17722
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Biosyn, Inc., 17722
ImClone Systems Inc., 17722–17723
OmniViral Therapeutics LLC, 17723–17724

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
West Coast salmon, 17639–17640
PROPOSED RULES
Endangered and threatened species:
Copper, quillback, and brown rockfish, and Pacific herring; Puget Sound populations; status review, 17659–17668
Fishery conservation and management:
Northeastern United States fisheries—
Northeast multispecies; fishing capacity reduction program, 17668–17673
Tilefish, 17673–17680
West Coast States and Western Pacific fisheries—
Fixed-gear sablefish harvest, 17681–17682
NOTICES
Endangered and threatened species:
Salmon Creek, Chimacum Creek, Jimmycomelately Creek, and Big Beef Creek summer chum salmon; hatchery and genetic management plans, 17684–17686

National Park Service
NOTICES
Native American human remains and associated funerary objects:
Museum of Anthropology, University of Missouri-Columbia, MO—
Inventory from Utz site, Saline County, MO, 17731–17732
Peabody Museum of Archaeology and Ethnology, Harvard University, MA—
Inventory from Fort Pierre, SD, 17733–17735
Inventory from Mandan Village Site, ND, 17732–17733
Karuk feather band from California, 17736–17737
Oglala Sioux individual from South Dakota, 17735–17736
Palouse Indian from Snake River, WA, 17736
Plains region Comanche individual from Oklahoma, 17735

National Telecommunications and Information Administration
NOTICES
Satellite communications market and role of intergovernmental satellite organizations; comment request, 17686–17687

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 17741–17742

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Joliet Medical Group, Ltd.; withdrawn, 17737
Salomon Smith Barney Inc. et al., 17738–17741

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
National Toxicology Program—
Scientific Counselors Board, 17724–17725

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc.; correction, 17752

Small Business Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17742

Social Security Administration
NOTICES
Foreign insurance or pension systems:
Korea, 17742

State Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17742–17743

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17725–17726
Federal agency urine drug testing; certified laboratories meeting minimum standards, list, 17726–17728

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Burlington Northern & Santa Fe Railway Co., 17748

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
See Internal Revenue Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17748

Separate Parts In This Issue

Part II
Department of Defense, General Services Administration, National Aeronautics and Space Administration, 17753–17760

Part III
Department of Labor, 17761–17765

Part IV
Environmental Protection Agency, 17767–17774

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

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

12 CFR
337.....17621

14 CFR
Proposed Rules:
39.....17641

16 CFR
2.....17622
3.....17622
4.....17622

40 CFR
52.....17634
Proposed Rules:
52 (3 documents) 17641, 17647
81.....17647

42 CFR
Proposed Rules:
36.....17657
447.....17657

47 CFR
73.....17638

48 CFR
Ch. 1.....17757
9.....17754
14.....17754
15.....17754
31.....17754
52.....17754
Proposed Rules:
9.....17758
14.....17758
15.....17758
31.....17758
52.....17758

50 CFR
660.....17639
Proposed Rules:
223.....17659
224.....17659
600.....17668
648.....17673
660.....17681

Rules and Regulations

Federal Register

Vol. 66, No. 64

Tuesday, April 3, 2001

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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

RIN 3064–AC48

Rescission of Deposit Broker Notification, Recordkeeping and Reporting Requirements

AGENCY: Federal Deposit Insurance Corporation (''FDIC'').

ACTION: Final rule.

SUMMARY: As part of the Financial Regulatory Relief and Economic Efficiency Act of 2000, Congress repealed section 29A of the Federal Deposit Insurance Act (''FDI Act''). Section 29A imposed certain requirements on deposit brokers and authorized the FDIC to issue implementing regulations. The FDIC is rescinding the regulations issued to implement the now-repealed section 29A of the FDI Act. As a result of Congress' repeal of section 29A and the FDIC's rescission of the implementing regulations, deposit brokers no longer are required to notify the FDIC that they are acting as deposit brokers or have ceased acting as such. Also, deposit brokers no longer are required to maintain records as to the amounts and maturities of deposits placed by the broker at each insured depository institution.

EFFECTIVE DATE: April 3, 2001.

FOR FURTHER INFORMATION CONTACT: Carol A. Mesheske, Chief, Special Activities Section, Division of Supervision, (202) 898–6750, Joseph A. DiNuzzo, Counsel, (202) 898–7349 or Christopher L. Hencke, Counsel, (202) 898–8839, Legal Division, FDIC, Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Congress repealed section 29A of the FDI Act (12 U.S.C. 1831f–1) in the Financial Regulatory Relief and Economic Efficiency Act of 2000. Pub. L. 106–569, Title XII, § 1203. The effective date of that legislation was December 27, 2000. Section 29A prohibited a ''deposit broker,'' as defined in section 29(g) of the FDI Act (12 U.S.C. 1831f(g)), from soliciting or placing deposits with FDIC-insured depository institutions unless the broker notified the FDIC that it was acting as a deposit broker. Deposit brokers also were required to notify the FDIC when they stopped acting as deposit brokers. In addition, section 29A authorized the FDIC to impose, by regulation, recordkeeping and reporting requirements upon deposit brokers. As an amendment to § 337.6 of its regulations, in 1992 the FDIC issued notice, recordkeeping and reporting requirements affecting deposit brokers. 12 CFR 337.6(e). As the result of Congress' repeal of section 29A of the FDI Act, the FDIC is now rescinding the regulations issued pursuant to section 29A.

In the past, some deposit brokers have advertised themselves as ''FDIC-registered.'' Such advertisements suggested that the broker had been approved or examined by the FDIC. Such suggestions were incorrect. By repealing section 29A, Congress intended to eliminate such inaccurate advertisements. Brokers should no longer advertise that they are ''FDIC-registered'' or otherwise indicate that they are somehow approved by the FDIC.

Neither the repeal of section 29A nor the rescission of § 337.6(e) changes the definition of deposit broker. Under the FDI Act a deposit broker is broadly defined as ''any person engaged in the business of placing deposits or facilitating the placement of deposits of third parties with insured depository institutions * * *.'' 12 U.S.C. 1831f(g)(1)(A). The repeal of section 29A and the rescission of § 337.6(e) mean only that deposit brokers are no longer bound by the former statutory and regulatory notification, recordkeeping and reporting requirements. The prohibition on the acceptance of brokered deposits by certain FDIC-insured depository institutions, based on their capitalization, continues to apply. (12 U.S.C. 1831f; 12 CFR 337.6.) Similarly, the requirements for obtaining ''pass-through'' insurance coverage on brokered deposits are unchanged. (12 CFR 330.5(b).)

Exemption From Public Notice and Comment

The rescission of § 337.6(e) does not constitute a ''rule'' for which the FDIC is required to publish a general notice of proposed rulemaking under section 553(b) of the United States Code. This is because the final rule merely rescinds a regulation issued pursuant to a statute that Congress has repealed. Thus, the FDIC has determined for good cause that public notice and comment are unnecessary and the rule should be published in final form.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 USC 601–612) requires an agency to publish an initial regulatory flexibility analysis, except to the extent provided in 5 USC 605(b), whenever the agency is required to publish a general notice of proposed rulemaking for a proposed rule. For the reasons discussed above, the FDIC is publishing this rule as a final rule, for which no publication of a general notice of proposed rulemaking is necessary. Thus, no regulatory flexibility analysis is required.

Congressional Review Act

The Office of Management and Budget has determined that this final rule is not a ''major rule'' within the meaning of the Congressional Review Act (5 USC 801, *et seq.*). The FDIC will file the appropriate reports with Congress and the General Accounting Office so that this final rule can be reviewed.

List of Subjects in 12 CFR Part 337

Banks, banking, Deposit brokers, Deposit insurance, Reporting and recordkeeping requirements, Savings associations, Securities.

In consideration of the foregoing, the FDIC hereby amends part 337 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1818(b), 1819, 1820(d)(10), 1821f, 1828(j)(2), 1831, 1831f–1.

§ 337.6 [Amended]

2. Section 337.6(e) is removed and reserved.

By order of the Board of Directors.

Dated at Washington, D.C., this 26th day of March, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–8100 Filed 4–2–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL TRADE COMMISSION

16 CFR Parts 2, 3 and 4

Rules of Practice

AGENCY: Federal Trade Commission (FTC).

ACTION: Interim rules with request for comments.

SUMMARY: The Commission is updating and making other technical corrections and changes to its regulations on Organization, Procedures and Rules of Practice.

DATES: These rule amendments will be effective May 18, 2001. Comments must be received on or before May 4, 2001. These amendments will govern all Commission adjudicatory proceedings commenced on or after May 18, 2001. They will also govern all pending Commission adjudicatory proceedings commenced before May 18, 2001 unless, in the opinion of the Administrative Law Judge (ALJ) or the Commission, the application of one or more amended rules in a particular proceeding would not be feasible or would work injustice.

ADDRESSES: Written comments must be submitted with 20 copies to the Office of the Secretary, Room 159, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John Graubert, Office of General Counsel, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2186, jgraubert@ftc.gov.

SUPPLEMENTARY INFORMATION: The Commission has periodically examined and revised its rules of practice in the interest of clarifying the rules and making the Commission's procedures more efficient and less burdensome for all parties.[1] The Commission is further amending parts 2, 3 and 4 of its rules, 16 CFR parts 2, 3 and 4, to update and make other technical clarifications, corrections, and changes to the rules, as follows.

Reports of Compliance

To facilitate the processing and review of compliance reports, Rule 2.41(a) is being amended to provide (1) that an original and one copy of each such compliance report should be filed with the Secretary of the Commission, and (2) that, at the same time, one additional copy should be filed with the Associate Director for Enforcement in the Bureau of Consumer Protection (for consumer protection orders) or with the Assistant Director for Compliance in the Bureau of Competition (for competition orders).

Pretrial and Discovery

Responsive Motions: Rule 3.12(a): In federal court practice, Federal Rule of Civil Procedure 12(a)(4) provides that the filing of a ''motion permitted under this rule'' tolls the period for answering a complaint. Commission Rule 3.12(a) generally follows the federal rule but mentions only a motion for a more definite statement. Although other motions, such as motions to dismiss, are undoubtedly rare at the outset of FTC administrative proceedings, there is no reason to exclude such dispositive motions from the rule. Making Rule 3.12(a) consistent with Fed. R. Civ. P. 12(a)(4) will spare the parties and ALJ the additional inconvenience of arranging extensions of time to answer in individual cases where such motions are filed.

Initial Pretrial Conferences: Rule 3.21(b): Under the Commission's 1996 Rule amendments, the ALJs must hold a scheduling conference not later than seven (7) days after the last answer is filed. Although the 1996 amendments were designed to expedite administrative litigation, this is one instance in which some additional time might actually make the proceedings more efficient. As a practical matter, particularly in cases when service on one or more respondents is complicated for any reason (e.g., overseas service), it has proved difficult to predict when the last answer will be filed and difficult to schedule and plan for a scheduling conference in this narrow seven-day window. Moreover, two days after the initial scheduling conference, no matter how hastily convened, the ALJ is required to issue a prehearing scheduling order based in part on the results of the conference. *See* Rule 3.21(c). Because the Commission wants the parties to exchange disclosures and have meaningful discussions about the proceeding before the scheduling conference in order to identify and attempt to narrow the issues in the case, which will also assist the ALJ in crafting a meaningful pretrial order, the Commission will make a modest enlargement of the period in Rule 3.21(b) from seven to fourteen (14) days.

Adjudicative Motions: Rule 3.22: When the Commission amended the Part 3 Rules in 1996, it approved a change to Rule 3.22(b) to require ''that all motions in adjudicative proceedings include the name, address, and telephone number of counsel, and attach a draft order containing the proposed relief.'' *See* 61 FR 50640, 50644. This language was inadvertently omitted from the revised Rule itself, as published in the **Federal Register** and later incorporated into the Code of Federal Regulation (although part of this requirement is contained in Rule 4.2(e)(1)). In addition to making this change in Rule 3.22, the amended rule will also require counsel to provide a fax number and e-mail address, if any, along with name, address and phone number.

Summary Decision: Rule 3.24(a)(2): The rule currently provides that a decision shall be rendered ''within thirty (30) days.'' For clarity, the Rule is being amended to specify that the decision is due within thirty (30) days after the opposition or any final brief ordered by the ALJ is filed.

Expert Discovery: Rule 3.31(c)(4)(i): Under the Commission's current rule, discovery of experts is handled principally by interrogatory. Further discovery, including depositions, requires an order from the ALJ. The amended Rule, reflecting the development of practice in recent years under the Federal Rules of Civil Procedure, generally provides for disclosure of expert opinions and depositions of experts. Rule 3.31(c)(4)(B)(iii), regarding payment of expert fees for certain discovery, is deleted. The ALJ can address any issues regarding fees or costs under Paragraph (d) of this rule.

Depositions: Rule 3.33(a): The amended Rule incorporates a provision modeled on Federal Rule of Civil Procedure 30(b)(7), which permits the parties to stipulate or the court to order that a deposition may be taken by telephone or other remote electronic means.

Foreign Discovery: Rule 3.36: Since the 1996 amendments to the Rules, parties may issue subpoenas for depositions or production of documents without prior approval or supervision from the ALJs, except when the discovery request seeks information or testimony from another governmental agency. For discovery involving other

---

[1] *See, e.g.*, 61 FR 50640 (Sept. 26, 1996); 50 FR 41485 (Oct. 11, 1985).

government agencies, the parties have to file a motion with the ALJ, who determines whether the request is reasonable in scope and whether the information sought cannot be reasonably obtained by other means. *See* Rule 3.36(b). For all other discovery, the parties obtain subpoena forms identifying the Part 3 matter at issue (but executed in blank as to the subpoena target) from the Secretary's office, and deliver them on their own. *See* Rule 3.34(a). These subpoenas include the seal of the agency, are signed by the Secretary, and bear every indication of being official agency documents.

Respondents have from time to time attempted to serve such subpoenas abroad. To the extent the subpoenas appear to have the imprimatur of the Commission, an attempt to serve them on foreign entities outside the territorial limits of the U.S. may raise serious issues of Commission jurisdiction and international law.[2] In the interest of limiting or avoiding conflicts with foreign authorities in this area, the Commission is putting foreign discovery requests back into the category of ALJ-supervised discovery under § 3.36. Indeed, the tests provided in § 3.36(b) provide a framework that closely tracks the prerequisites for foreign discovery as commonly recognized by treaty, custom and practice in many countries: That is, such discovery should only occur if a judge determines that the request is reasonable and that other means of obtaining the information (such as domestic discovery or voluntary arrangements) have been exhausted or are not available.[3]

Parties seeking foreign discovery must also make a good faith demonstration before the ALJ that the discovery requested would be permitted by treaty, law, custom or practice in the country from which the discovery is sought and that any additional procedural requirements have been or will be met before the subpoena is served. This does not mean that the ALJs will be expected to make rulings on questions of foreign law. This showing, together with the other requirements of Rule 3.36(b), will merely assist the ALJ in attempting to prevent unnecessary conflicts with foreign sovereigns.

There is no comparable need at this time for rule revisions regarding discovery requests served within the United States that may require production of documents located abroad (in foreign offices of multinational corporations, for example). Cases arising under similar statutory provisions confirm that such discovery requests are authorized by the FTC Act and are not likely to present the same extraterritoriality concerns as actual service of discovery requests abroad.[4]

Rule 3.36 is also being amended to add a new subsection (c), to make it clear that each subpoena issued pursuant to an order of the ALJ under Rule 3.36 shall be signed by the Secretary, but must have attached to it, and be served in conjunction with, a copy of the Order authorizing its issuance.

Rule 3.34, the rule providing for issuance of subpoenas in blank, is amended to make clear that that procedure does not apply to discovery requests covered by Rule 3.36. Finally, the reference to § 3.31*(b)*(1) in § 3.36(b)(2) to § 3.31*(c)*(1).

Orders Compelling Witness Testimony: Rule 3.39(a): For completeness, this rule should specifically include Directors and Deputy Directors of Bureaus, Assistant Directors in the Bureau of Competition, Associate Directors in the Bureau of Consumer Protection, and Regional Directors and Assistant Regional Directors of Commission Regional Offices, to reflect the current organization of the Bureaus.

Filing of Documents Other Than Correspondence

In order to facilitate the filing, receipt, and processing of documents submitted to the Commission, in both adjudicative and nonadjudicative proceedings—and to accommodate the need to secure electronic copies of such documents in a routine, systematic, and efficient manner—Rule 4.2 has been amended in a number of respects:

Copies: Rule 4.2(c): The present Rule 4.2(c) requires the filing of an original and twenty (20) copies of ''all documents before the Commission'' and certain motions before an ALJ, and an original and ten (10) copies of all other documents before an ALJ. In light of the rule amendments regarding electronic filing, discussed below, and to reduce the burden of the filing process as much as possible, this rule is amended to require the filing of a paper original and twelve (12) copies of documents filed before the Commission, and the paper original and only one (1) paper copy of each document filed before an ALJ in an adjudicative proceeding. The current Rule 4.2(c) also requires the filing of ''an original and one copy of compliance reports'' and the filing of ''one (1) copy of admissions and answers thereto.'' As noted above, the first requirement has been transferred to Rule 2.41, which deals with the filing of compliance reports, and therefore need no longer appear in Rule 4.2(c). Similarly, the second requirement replicates the requirement covering admissions and answers thereto already set forth in Rule 3.32, and therefore need no longer appear in Rule 4.2(c) as well. In addition, Rule 4.2(c) currently requires parties filing motions to provide copies to the ALJ at the time such motions are filed with the Secretary. Because this requirement already appears in Rule 3.22, and is being added to Rule 4.4(b), it may also be removed from Rule 4.2(c).

Electronic Filing: Rule 4.2: The Rule is amended in a number of respects to reflect current practices and technology. First, the amended rule requires the submission to the Commission of electronic copies of pleadings, motions, briefs, and all other filings in adjudicative proceedings—whether before the Commission or an ALJ—and of all other formal filings before the Commission, such as petitions to limit or quash and appeals from rulings thereon; requests to reopen or modify; and applications for approval of proposed divestitures, acquisitions, or similar transactions.

The Commission notes that other agencies have had electronic filing requirements for many years,[5] and that the burden of this proposal on the public is likely to be negligible at this point. The use of electronic word-processing equipment is virtually universal, certainly among parties appearing before the Commission. In case of extreme hardship, however, the Secretary is empowered to excuse a party from this requirement. The rule follows the format requirements used in the Commission's request for nominations for the Advisory Committee on Online Access and

[2] *See CFTC* v. *Nahas,* 738 F.2d 487 (D.C. Cir. 1984) (district court lacks jurisdiction to enforce a CFTC investigative subpoena served on a foreign citizen in a foreign nation); *FTC* v. *Compagnie de Saint-Gobain-Pont-a-Mousson,* 636 F.2d 1300 (D.C. Cir. 1980) (FTC Act does not authorize service of subpoenas abroad by registered mail). These issues are less likely to arise with Civil Investigative Demands served at the behest of Commission staff, because section 20(c)(7)(b) of the FTC Act specifically provides for foreign service of CIDs.

[3] *See, e.g.,* Revised Recommendation of the OECD Council Concerning Co-operation Between Member Countries on Restrictive Business Practices Affecting International Trade, OECD Doc. C (95)130 (Final) (July 1995) at Appendix ¶ 8(a)–(c); U.S. Dept. of Justice and Federal Trade Commission, Antitrust Enforcement Guidelines for International Operations § 4.2 (April 1995).

[4] *See FMC* v. *DeSmedt,* 366 F.2d 464 (2d Cir.), *cert. denied,* 385 U.S. 974 (1966); *accord CAB* v. *Deutsche Lufthansa Aktiengesellschaft,* 591 F.2d 951 (D.C. Cir. 1979).

[5] *See, e.g.,* 49 CFR 1104.3(a) (Surface Transportation Board).

Security, which requested that submissions be accompanied by an electronic copy in ASCII format, WordPerfect or Microsoft Word. *See* 64 FR 71457 (Dec. 21, 1999). This covers the two most popular word-processing programs. Documents written on other systems can be readily converted into one of the three requested options.

The amended rule further provides that an electronic copy of each public filing in an adjudicative proceeding shall be submitted to the Commission by e-mail, while an electronic copy of an *in camera* or otherwise confidential filing shall be submitted to the Commission on a diskette attached to the paper original of the filing. The amended rule requires certification that a paper copy with an original signature is being filed on the same day by other means, thus preserving the availability of sanctions under Rule 4.2(e). A paper copy is also still required because many exhibits and appendices cannot currently be transmitted electronically in a feasible or efficient manner.

Second, the amended rule permits the filing of other public documents, such as public comments, in either paper or electronic form. If an electronic version is filed, it should be submitted by e-mail, rather than diskette. This method of filing makes the document-handling system more efficient and secure, eliminating problems caused by possible loss or mis-labeling of a diskette. Documents which contain nonpublic information—other than those filed formally before the Commission, or before an ALJ in adjudicative proceedings—must be filed in paper from only, and must clearly be labeled as confidential.

The Commission's experience with electronic filing under the amended rules will assist in preparing for compliance with the Government Paperwork Elimination Act, Title XVII of Public Law 105–277 (Oct. 21, 1998), by the Act's effective date in October 2003.

Service: Rule 4.4: In order to assure that complaint counsel receive copies of pleadings as expeditiously as possible, the amended rule adds ''lead complaint counsel'' to the list of parties to be served in Rule 4.4(b). A copy must also be filed with the ALJ.

Rules 4.4(a)(3) and 4.4(b) are expanded to provide explicitly for service by overnight courier.

Secretarial Service of Complaint Counsel Documents: The current practice of having the Secretary serve documents filed by complaint counsel does not appear to be based on any rule or statutory requirement. This procedure adds delay and administrative burden with no apparent countervailing benefit. Although changing this practice does not require a rule change, and has been accomplished by a Notice to Staff and a public announcement, the requirement for a certificate of service in Rule 4.4(c) is now uniformly applicable to all parties—including both complaint counsel and all respondents—as indicated by deletion of the phrase ''by a party respondent or intervenor'' from this paragraph. Also, the option of providing an ''acknowledgment of service'' in lieu of proof of service is rarely used, serves little purpose, and has been deleted.

Trials

Evidence: Rule 3.43: In *Lenox, Inc.,* 73 F.T.C. 578, 603–04 (1968), the Commission articulated its position that, because respondents are in the best position to determine the authenticity of documents kept in their own files, respondents bear the burden of producing evidence to rebut a presumption that documents produced from their files are authentic. For the same reason the Commission also adopted a rebuttable presumption that such documents were kept in the regular course of business, for purposes of admissibility. This position has been repeated in subsequent cases, and applied to documents produced by any corporation (including third parties).

Nevertheless, in some proceedings counsel continue to raise objections to the authenticity of their own documents (without producing affirmative evidence calling authenticity into question) until the ALJ is forced to make a ruling enforcing the *Lenox* presumption. This practice wastes time and energy. Expressly writing the *Lenox* presumption into the rules might deter some of these objections.

Accordingly, the amended rule creates a second paragraph in Rule 3.43(b) providing that a document generated and produced by any person engaged in commerce is presumptively authentic, and presumptively was prepared and kept in the regular course of business of the person generating or producing the document, unless the person introduces evidence tending to rebut such a presumption. This rule does not apply to Commission records. Public records are subject to separate, specific rules in the Federal Rules of Evidence, *see* Fed. R. Evid. 803(8–10), and the Commission thinks it appropriate to treat Commission records separately as well. For example, to the extent the *Lenox* presumptions place a burden on a producing party to demonstrate that a particular document should not be attributed to that party, such a presumption is neither necessary nor appropriate in the case of the Commission. The Commission has made clear that it is bound only by the formal majority vote of the Commissioners, and not by representations of staff. *See, e.g., In re TRW, Inc., et al.,* 88 F.T.C. 544, 544–45 (Interlocutory Order, Oct. 13, 1976).

In camera Treatment: Rules 3.45(d) and 3.46(b) & (c): The current rules and practices regarding *in camera* treatment of evidence are causing a number of problems. First, parties have become extremely lax in complying with the existing rules regarding *in camera* treatment. Parties frequently file documents stamped ''*in camera*'' and assume *in camera* treatment will be maintained even though the party has neither sought nor obtained a ruling granting such treatment. Parties also routinely ignore or only partially observe the requirement that post-trial exhibit and witness lists clearly identify which materials and testimony are *in camera.* The ALJs and the Secretary need clearer authority to enforce compliance with the existing rules by, among other sanctions, denying *in camera* status to or rejecting documents that do not comply with the rules.

Second, the ALJs need a defined procedure for dealing with mid-trial requests for *in camera* treatment that cannot be decided immediately because, for example, notice to a third party is required. The ALJs typically extend temporary protection in such cases pursuant to their general authority to regulate the course of the proceedings, but this procedure should be set forth in the rules of practice. This written procedure specifies, for example, how and when the issue will be brought back before the ALJ for a final determination. This will help assure that a party (or third party) in fact makes the required evidentiary showing to support all the *in camera* designations in the record.

Finally, even if all the current requirements are met it is often difficult for Office of General Counsel staff (OGC) and the Commissioners' offices to ascertain what materials are legitimately part of the *in camera* record when the Commission's opinions are ready for release. Several additional steps described below will assist the Commissioners in preparing opinions for public release, while adding only minimal burden to the parties.

(1) *Changes to Ensure Compliance With Existing Rules:* (a) Rule 3.46 requires a party to indicate in post-trial submissions the *in camera* status of exhibits and witness testimony offered by that party and received into

evidence.[6] This information is an invaluable aid for the ALJ and Commission in reviewing the evidentiary record. The parties, however, frequently fail to comply with these requirements. This failure impedes OGC's *in camera* review of the Commission's final opinion because staff must search the entire record for *in camera* rulings, including bench rulings, to determine the *in camera* status of evidentiary materials discussed in the opinion.

To avoid such difficulties, the Commission is amending rule 3.42(c) to state explicitly that the ALJ may reject written submissions that fail to comply with the rules in this Part, including Rule 3.46.

(b) As noted above, parties sometimes submit material marked ''*in camera*'' even though they have never sought or obtained a ruling from the ALJ that such treatment is appropriate. These submitters may well assume that their self-designated *in camera* submissions will not thereafter be disclosed to the public. Absent an affirmative ALJ ruling granting such materials *in camera* status, however, the Commission may be free to place these materials on the public record, and to disclose them in its final opinion, without advance notification.

Here the program may lie in part in an arguable gap in rule 3.45(b). The Rule indicates that an order is required to withhold material from the public record, and provides citations to the legal standards on which the ALJ's ruling is to be based. But the Rule does not explicitly require the party seeking *in camera* status to make a motion for such an order. The requirement of a motion would seem to be fairly evident, if not implicit, and in fact most parties do make such a motion. Parties that do not, however, may avoid (intentionally or unintentionally) ever making the required evidentiary showing that *in camera* treatment is appropriate and obtaining a corresponding order. The Commission therefore is now making the requirement of a motion for *in camera* treatment explicit in rule 3.45(b). The Commission is also making explicit a requirement that parties who seek to use material obtained from a third party subject to confidentiality restrictions demonstrate that the third party has been given adequate notice and opportunity to seek protection on its own behalf. Failure to comply with these requirements subjects the noncomplying party to the additional sanctions adopted in rule 3.42(c).

(c) Parties have also incorrectly asserted *in camera* status for pre-trial motions or other documents that are not being ''offered into evidence.'' The *in camera* rules do not apply to such documents. *See* Rule 3.45(b). Motions that seek pretrial or procedural rulings, and that contain confidential matter, should be handled under the procedures for protective orders, *see* Rule 3.31(d), and should not be confused with *in camera* matters. One aspect of the *in camera* rules that should equally apply in the protective order context, however, is the requirement that parties submit both a public (redacted) and confidential) version of the relevant documents. Such a requirement is now added to Rule 3.22(b) by adding the words ''or is subject to confidentiality protections pursuant to a protective order'' after ''*in camera* status pursuant to § 3.45(b).'' Corresponding changes are made in Rules 3.22(c) and 3.45(d), (e) & (f).

Parties must also mark their confidential filings with brackets or similar conspicuous markings to indicate the material for which they are claiming confidential treatment, so that Commission staff who use the confidential versions of filings in preparing or reviewing decisions in the litigation are aware of which material may be subject to protective order. This complements a similar rule change for trial submissions discussed below.

(2) *Provisional Rulings:* The current Rule 3.45(b) fails to accommodate situations in which the ALJ cannot rule on *in camera* issues at the time evidence is offered. This problem arises most frequently when a party offers into evidence at trial third party materials obtained through discovery and the third party is not present to request *in camera* treatment. As a matter of practice, the ALJ will grant provisional *in camera* status so that the testimony can continue uninterrupted and will instruct the introducing party to notify the third party of the provisional grant and the need to file an application for *in camera* treatment if it wants *in camera* treatment extended beyond a temporary period.

There is no statutory impediment to this practice.[7] Provisional grants of *in camera* treatment, moreover, serve a useful purpose, allowing the case to proceed without sidebar interruptions or delays addressing peripheral confidentiality issues. The rule is accordingly amended to provide express authority for this practice and specify a time period—twenty (20) days—within which the party offering the evidence must take whatever steps are necessary to present the matter to the ALJ for a final ruling. This might include notifying any affected third party submitters and giving them the opportunity to appear and make the appropriate showing. If the 20-day time period elapses without a motion to support the *in camera* claim, the ALJ can exclude the evidence or deny *in camera* status as appropriate in particular cases.

(3) *Aids for the Release of Commission Opinions and Formerly In Camera Material:* There are a number of relatively small measures that could greatly assist the process of determining which portions of Commission opinions must be withheld from the public record, and, in turn, of putting on the public record material for which *in camera* or other confidentiality protection has expired:

(a) Submitters of *in camera* material must provide, for each piece of such evidence and affixed to such evidence, a name and address of record for notification purposes in the event the Commission intends to release the *in camera* material in a final adjudicative opinion, and must also update this information if necessary throughout the proceeding. This measure should minimize unnecessary delay while staff attempts to determine whom to notify of a proposed release, when that information is not apparent from the *in camera* document. For summaries, tables and other evidentiary compilations the submitter should make clear which entity is to be notified with respect to each separate reference to *in camera* material.

(b) A party or nonparty submitter must mark its *in camera* submissions, either with highlighting, brackets or some other conspicuous marking, to show which material is claimed to be confidential. In addition, each such submission should include as an

[6] A party's first statement of proposed findings of fact and conclusions of law must include both an exhibit index and a witness index specifying, among other things, each of that party's exhibits that have been accorded *in camera* treatment, 16 CFR 3.46(b)(7), and any portions of witness testimony offered by that party which the ALJ received *in camera. Id.* at 3.46(c)(4).

[7] The Administrative Procedure Act (''APA''), 5 U.S.C. 551 *et seq.*, empowers the ALJs, *inter alia,* to regulate the course of the hearing. *Id.* at section 556(c)(5); *see also* 16 CFR 3.42(c)(6) (conforming rule of practice). The APA specifies the content of an adjudicative record (i.e., transcript of testimony, exhibits and all papers and requests filed in the proceeding), and requires that it be made available to the *parties.* 5 U.S.C. 556. Under the APA, the only adjudicative materials that agencies must routinely make available for public inspection and copying are final opinions, including concurring and dissenting opinions, and orders in adjudications. *Id.* at section 552(a)(2). Similarly, the FTC Act requires only that the Commission's ''report'' stating its findings be served on the parties. 15 U.S.C. 45(b).

attachment a set of pages consisting only of those pages on which the highlighted, bracketed, or otherwise marked material appears. Individuals involved in preparing the Commission's final adjudicative opinion primarily rely on the complete, *in camera* versions of parties' briefs, proposed findings of fact and conclusions of law and other written submissions, as well as the *in camera* version of the ALJ's initial decision. It has not always been apparent from such documents, however, which portions of the document are actually *in camera.*

In camera review would be greatly facilitated if the *in camera* portions of party submissions and the ALJ's initial decision were easily identifiable. Moreover, the inclusion of a separate set of pages consisting only of the pages on which *in camera* or otherwise confidential material appears would greatly facilitate the later placement of that material on the public record, once its *in camera* or otherwise confidential status has expired. Requiring the parties to enclose *in camera* excerpts in brackets, and to include such a separate attachment, should impose no significant additional burden, because they must already identify such excerpts when preparing the public versions of their submissions.

(c) *in camera* discussions in written submissions must include record citations to the relevant *in camera* evidentiary materials and associated ALJ *in camera* rulings. OGC and Commissioners' staff sometimes cannot link purported *in camera* excerpts to a specific ALJ ruling granting such treatment, either because there was no such ruling or because the record is not sufficiently clear.

(d) The rule provides that *in camera* orders lacking an expiration date will expire three years after issuance.[8] Most ALJ *in camera* orders include an expiration date, as required by Rule 3.45(b)(3). However, in rare instances, *in camera* orders have been silent as to their duration. To avoid the undesirable result that an exhibit or testimony would be accorded indeterminate *in camera* treatment without adequate justification, the Commission believes an automatic, default expiration of *in camera* treatment after three years would strike an appropriate balance between maintaining the confidentiality of sensitive materials that would result in competitive injury if disclosed, and public access to the underlying basis for Commission decisions.

Expiration of *in camera* treatment three years after the ALJ's designation would discourage blanket grants of confidentiality by reminding the moving parties that they bear a special burden of showing why *in camera* treatment should be accorded for any longer period of time. *See General Foods,* 95 F.T.C. at 353 & n.2 (and cases cited therein); *see also E.I. DuPont de Nemours & Co.,* 1990 FTC LEXIS 134, *2 (April 25, 1990) (applicants seeking *in camera* treatment must demonstrate ''at the outset that the need for confidentiality of the material is not likely to decrease over time'').

Consent Agreement Settlements: Rule 3.25(c): As the Commission held in *Textron, Inc.,* D. 9226 (April 14, 1993), the Secretary's authority to withdraw a matter from adjudication upon execution of a consent agreement by respondent and complaint counsel should apply only when the matter is still pending before an ALJ, not if the matter is before the Commission. The Rule is amended to reflect this holding by inserting the words ''and the matter is still pending before an Administrative Law Judge'' before ''the Secretary shall issue an order'' in Rule 3.25(c). A sentence is also added to the end of Rule 3.25(c) providing that if the matter is pending before the Commission, the Commission may, on motion, in its discretion, withdraw the matter from adjudication in order to consider a proposed consent agreement.

Closing the Record: Rule 3.44(c): The second sentence of Rule 3.44(c) contains a clerical error and should read ''The Administrative Law Judge shall retain the *discretion* to permit or order correction of the record as provided in § 3.44(b).''

Appeals

Scope of review: Rule 3.51(c)(3): Rule 3.51(c)(3) provides that the initial decision of an ALJ ''shall be supported by reliable, probative and substantial evidence.'' The term ''substantial evidence'' in this rule is meant to refer to the standard for agency decisions in section 556(d) of the Administrative Procedure Act, which deals with the quantum of evidence (in most cases a preponderance) needed to support findings of fact.[9] The phrase in this context should not be confused with the ''substantial evidence'' standard for judicial review of agency action, which is more deferential and may not require support by a ''preponderance'' of the evidence.[10]

Removing the ''substantial evidence'' language from § 3.51(c)(3) should help eliminate such confusion. The parties' burdens of proof are still clearly governed by the case law and both section 556(d) of the APA and Commission Rule 3.43(a). Also, the Rule is streamlined by consolidating the remainder of subsection (c)(3) into subsection (c)(1), which also deals with the content of initial decisions.

Form of Briefs: Rules 3.52 and 4.2: The Commission has a longstanding interest, as no doubt other parties do as well, in trying to make briefs clearer and more concise. Much time and paper has also been spent trying to address outdated typeface and format rules.[11] The complexity of the typical Part 3 case makes it very difficult to impose rigid rules that would limit and simplify briefs. The Commission is attempting to address these concerns, however, by adopting three changes to conform the Commission's rules more closely to the Federal Rules of Appellate Procedure and the local rules of many federal circuit courts:

1. Specification that the present requirement of a ''concise statement of the case'' in Rule 3.52(b)(2) means a concise summary of argument and concise statement of facts, following the model of Federal Rule of Appellate Procedure 28(a)(6)–(8) and (b);

2. The outmoded typeface, paper size, margin and page limit provisions of Rule 3.52 are eliminated and replaced with word count limitations, as the Federal Rules of Appellate Procedure currently provide; and

3. The rule now specifically provides that requests for extensions of the word limit are disfavored and will not be granted absent compelling circumstances.

The first amendment is intended to encourage parties to organize and present their arguments clearly and cogently. Although Rule 3.52(b) does presently require a ''concise statement of the case,'' as well as a ''specification

[8] The Commission observed in *General Foods,* 95 F.T.C. 352, 353 (1980), that it ''has usually denied *in camera* treatment for data'' that is more than three years old. (citing cases). ALJs routinely rely on this time frame when disposing of *in camera* applications. *See, e.g., International Ass'n of Conference Interpreters,* 123 F.T.C. 465, 469 (1996).

[9] *See Steadman* v. *SEC,* 450 U.S. 91, 98 (1981).

[10] *See Cellular Tel. Co.* v. *Town of Oyster Bay,* 166 F. 3d 490, 492, 494 (2d. Cir. 1999); *but cf. Standard Oil Co. of California,* 84 F.T.C. 1401, 1446-47 (1974) (initial decision incorrectly applying appellate review standard to complaint counsel's case).

[11] Several parties have filed special pleadings seeking relief from the requirements of or otherwise complaining about the typeface requirements. *See, e.g.,* Motion for an Extension of 30 Days to File Appeal Brief and for Leave to Use Alternate Typeface, *In re Summit Technology &VISX, Inc.,* Docket No. 9286 (June 28, 1999); Order Granting Permission to File Brief in Times New Roman, 12-Point Type, *Toys-''R''-Us, Inc.,* Docket No. 9278 (Dec. 9, 1997); Order Denying Complaint Counsel's Motion To Require Respondents To File Brief Complying With Rule 3.52(e), *Id.* (Nov. 12, 1997).

of the questions intended to be urged,'' the FRAP standards are somewhat more specific and are widely understood by the bar. Specifically referring to and incorporating these standards should lead to more uniform, concise and comprehensible briefs.

The word count limitations provide a simple, easily enforceable standard for the length of briefs. They give the parties an incentive to make their briefs legible, avoiding devices such as smaller fonts, excessive single-space footnotes or shaving of margins and spacing to get under a page limit. Consistent with the practice in most appellate courts, the rule excludes the cover, table of contents, table of authorities, glossaries, and appendices containing only sections of statutes or regulations, and the attachments required by Rule 3.45(e), if any, as well as the ''proposed form of order,'' but includes footnotes and all other citations. The parties would be required to certify that their submission complies with the applicable word count.

The conversion from page to word counts also provides an opportunity to reconsider the appropriate length for briefs filed with the Commission. Our present limit of 90 pages for a typewritten brief is higher than several of our sister agencies, such as the SEC (60 pages) or CFTC (50 pages), but lower than the FERC (100 pages). The Federal Rules of Appellate Procedure impose a general limitation of 30 pages or 14,000 words for principal briefs. Views on the appropriate page limits differ: some point to the complexity of recent Part 3 cases and the extent of the Commission's *de novo* review authority and say a 90 page brief is virtually unavoidable; others say that whatever the complexity of a case, effective advocacy requires stating the case in many fewer pages.

Although it is true that the Commission's Part 3 cases tend to be complex, concerns about the length of briefs are more compelling. The Commission accordingly sets the limit at 75 pages for principal briefs, which converts to 18,750 words using the D.C. Circuit standard of approximately 250 words per page. The page limitations for other briefs are reduced by a comparable amount.

The page limitations for briefs in cross appeals merit particular scrutiny. Under the present rules, by filing a cross-appeal a party more than doubles the number of pages to which that party is entitled—from 90 to 205 pages. In contrast, under the Federal Rules of Appellate Procedure, a party filing a cross appeal is permitted one additional 15-page brief, a fifty-percent increase in pages. The new word limits for cross appeals are as follows:

Appellant's opening brief—18,750 words (75 pages)
Appellee/cross appellant's answering brief—26,250 words (105 pages)
Appellant's reply—18,750 words (75 pages)
Reply of cross-appellant—11,250 words (45 pages)

This system still leaves each party with an equal number of pages, as in the current rule, but cuts the total number of pages by the equivalent of 110 pages.

Miscellaneous Matters

The Office of the Secretary: Two other additions to the Rules will assist the smooth functioning of the Office of the Secretary. First, in addition to the ''Rule 11''-type authority already in the Rule, the Secretary should have the same authority as most court clerks to reject documents for filing that fail to comply with Commission rules, such as the failure to attach proof of service to a filing in an adjudicative proceeding, as required by Rule 4.4(c). Such authority is now placed in a new Rule 4.2(g).

Second, the Commission is formally promulgating a 5:00 rule—that is, that documents must be received by the Secretary's office before 5:00 p.m. Eastern time to be deemed filed that day. Any documents received at the agency after 5:00 p.m. will be deemed filed the following day. This rule, added as Rule 4.3(d), will be consistent with our current general practice, and with Rule 0.3, which provides that the offices of the Commission are open each business day from 8:30 a.m. to 5 p.m.

The public record and nonpublic materials: The Commission is amending Rule 4.9, which describes the public record of the Commission, to implement portions of the Muhammed Ali Boxing Reform Act, Public Law 106–210, 114 Stat. 321 (2000) (to be codified at 15 U.S.C. 6301 note, 6307a–6307h). That statute provides, inter alia, that professional boxing sanctioning organizations [12] must file with the Commission, no later than January 31 of each year, the following information: (1) A complete description of the organization's ratings criteria, policies, and general sanctioning fee schedule; (2) the organization's bylaws; (3) the appeals procedures that a boxer may use to challenge his rating; and (4) the names and business addresses of all organization officials who vote on the boxers' ratings.[13] The Act also requires the Commission to make such filings ''available to the public.'' [14] The Commission is therefore amending Rule 4.9 by adding a new § 4.9(b)(10)(xiii) to provide that such filings are part of its public record. In addition, the Commission will routinely place such filings on its web site, www.ftc.gov, along with the statement that the Commission has not reviewed or approved the filings.

Finally, Rule 4.10(g), which provides a procedure whereby the Commission may disclose certain confidential material in Commission administrative or court proceedings only after notice to the submitter, is amended by clarifying in subsection (1) that a person or entity that submits material voluntarily in lieu of process must designate such material as confidential in order to gain the protections of this Rule.

The Administrative Procedure Act does not require prior public notice and comment on these amendments because they relate solely to rules of agency, organization, procedure or practice. 5 U.S.C. 553(b)(A). For this reason, the Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis. *See* 5 U.S.C. 603, 604. To the extent these amendments relate to agency information collection activities, they are exempt from review under the Paperwork Reduction Act. *See* 44 U.S.C. 3518(c); 5 CFR 1320.4 (collections during the conduct of civil or administrative proceedings or investigations). The Commission nevertheless welcomes comment on these amendments and will consider further revision, if appropriate.

List of Subjects

16 CFR Part 2

Administration practice and procedure, Investigations, Reporting and Recordkeeping Requirements.

16 CFR Part 3

Administration practice and procedure, Claims, Equal Access to Justice, Lawyers.

[12] The statute defines a ''sanctioning organization'' as an organization that ''sanctions professional boxing matches in the United States; (A) between boxers who are residents of different states; or (B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.'' Section 7(a)(14), 114 Stat. at 328.

[13] Section 11(d), 114 Stat. at 323 (codified at 15 U.S.C. 6307c). In lieu of filing such information with the Commission, sanctioning organizations may instead disclose it on a web site, so long as the web site is readily accessible to the general public using generally available search engines, and so long as the site contains all of the above information. Id. at 324.

[14] 114 Stat. at 324.

16 CFR Part 4

Administration practice and procedure, Freedom of Information Act, Privacy Act, Sunshine Act.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter I, Subchapter A, of the Code of Federal Regulations, as follows:

PART 2—NONADJUDICATIVE PROCEDURES

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

Authority: 15 U.S.C. 46, unless otherwise noted.

2. Amend § 2.41(a) to add a new second sentence to read as follows:

§ 2.41 Reports of compliance.

(a) * * * An original and one copy of each such report shall be filed with the Secretary of the Commission, and one copy of each such report shall be filed with the Associate Director for Enforcement in the Bureau of Consumer Protection (for consumer protection orders) or with the Assistant Director for Compliance in the Bureau of Competition (for competition orders). * * *

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

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

Authority: 15 U.S.C. 46, unless otherwise noted.

4. Revise § 3.12(a) to read as follows:

§ 3.12 Answer.

(a) *Time for filing.* A respondent shall file an answer within twenty (20) days after being served with the complaint; *Provided, however,* That the filing of a motion permitted under these Rules shall alter this period of time as follows, unless a different time is fixed by the Administrative Law Judge:

(1) If the motion is denied, the answer shall be filed within ten (10) days after service of the order or denial or thirty (30) days after service of the complaint, whichever is later;

(2) If a motion for more definite statement of the charges is granted, in whole or in part, the more definite statement of the charges shall be filed within ten (10) days after service of the order granting the motion and the answer shall be filed within ten (10) days after service of the more definite statement of the charges.

* * * * *

5. Amend § 3.21 by revising the first sentence of paragraph (b) to read as follows:

§ 3.21 Prehearing procedures.

* * * * *

(b) *Scheduling conference.* Not later than fourteen (14) days after the answer is filed by the last answering respondent, the Administrative Law Judge shall hold a scheduling conference * * *

* * * * *

6. Amend § 3.22 by revising paragraph (b) and the second sentence of paragraph (c) to read as follows:

§ 3.22 Motions.

* * * * *

(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds therefor. They must also include the name, address, telephone number, fax number, and e-mail address (if any) of counsel and attach a draft order containing the proposed relief. If a party includes in a motion information that has been granted *in camera* status pursuant to § 3.45(b) or is subject to confidentiality protections pursuant to a protective order, the party shall file two versions of the motion in accordance with the procedures set forth in § 3.45(e). The party shall mark its confidential filings with brackets or similar conspicuous markings to indicate the material for which it is claiming confidential treatment. The time period specified by § 3.22(c) within which an opposing party may file an answer will begin to run upon service on that opposing party of the confidential version of the motion.

(c) *Answers.* * * * If an opposing party includes in an answer information that has been granted *in camera* status pursuant to § 3.45(b) or is subject to confidentiality protections pursuant to a protective order, the opposing party shall file two versions of the answer in accordance with the procedures set forth in § 3.45(e). * * *

* * * * *

7. Amend § 3.24 by revising the fourth and fifth sentences of paragraph (a)(2) as follows:

§ 3.24 Summary decisions.

(a) * * * (2) * * * If a party includes in any such brief or memorandum information that has been granted *in camera* status pursuant to § 3.45(b) or is subject to confidentiality protections pursuant to a protective order, the party shall file two versions of the document in accordance with the procedures set forth in § 3.45(e). The decision sought by the moving party shall be rendered within thirty (30) days after the opposition or any final brief ordered by the Administrative Law Judge is filed, if the pleadings and any depositions, answers to interrogatories, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that the moving party is entitled to such decision as a matter of law.* * *

* * * * *

8. Amend § 3.25 by revising paragraph (c) as follows:

§ 3.25 Consent agreement settlements.

* * * * *

(c) If the proposed consent agreement accompanying the motion has also been executed by complaint counsel, including the appropriate Bureau Director, and the matter is still pending before an Administrative Law Judge, the Secretary shall issue an order withdrawing from adjudication those portions of the matter that the proposal would resolve and all proceedings before the Administrative Law Judge shall be stayed with respect to such portions, pending a determination by the Commission pursuant to paragraph (f) of this section. If the matter is pending before the Commission, the Commission in its discretion may, on motion, issue an order withdrawing from adjudication those portions of the matter that a proposed consent agreement would resolve for the purpose of considering the proposed consent agreement.

* * * * *

9.–10. Amend § 3.31 as follows:

a. By adding the following paragraph (b)(3),

b. Revising paragraph (c)(4)(i) introductory text, and

c. Removing paragraph (c)(4)(iii).

The addition and revision read as follows:

§ 3.31 General provisions.

* * * * *

(b) *Initial disclosures.* * * *

(3) In addition to the disclosures required by paragraphs (b)(1) and (2), of this section, the parties shall disclose to each other the identity of any person who may be used at trial to present evidence as an expert. Except as otherwise stipulated or directed by the Administrative Law Judge, this disclosure shall, with respect to a witness who is retained or specially employed to provide to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, be accompanied by a written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons

therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years. These disclosures shall be made at the times and in the sequence directed by the Administrative Law Judge. In the absence of other directions from the Administrative Law Judge or stipulation by the parties, the disclosures shall be made at least 90 days before the trial date or the date the case is to be ready for trial or, if the evidence is intended solely to contradict or rebut proposed expert testimony on the same subject matter identified by another party under this paragraph, within 30 days after the disclosure made by the other party.

* * * * *

(c) * * *

(4) *Hearing Preparation: Experts.* (i) A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If a report from the expert is required under § 3.31(b)(3), the deposition shall not be conducted until after the report is provided.

* * * * *

11. Amend § 3.33 by adding a sentence to the end of paragraph (a) to read as follows:

§ 3.33 Depositions.

(a) *In general.* * * * The parties may stipulate in writing or the Administrative Law Judge may upon motion order that a deposition be taken by telephone or other remote electronic means. A deposition taken by such means is deemed taken at the place where the deponent is to answer questions.

* * * * *

12. Amend § 3.34 by revising the heading and last sentence of paragraph (c) to read as follows:

§ 3.34 Subpoenas.

* * * * *

(c) *Motions to quash; limitation on subpoenas subject to § 3.36.* * * * Nothing in paragraphs (a) and (b) of this section authorizes the issuance of subpoenas requiring the appearance of, or the production of documents in the possession, custody, or control of, an official or employee of a governmental agency other than the Commission, or subpoenas to be served in a foreign country, which may be authorized only in accordance with § 3.36.

13. Revise § 3.36 to read as follows:

§ 3.36 Applications for subpoenas for records, or appearances by officials or employees, of governmental agencies other than the Commission, and subpoenas to be served in a foreign country.

(a) *Forms.* an application for issuance of a subpoena for the production of documents, as defined in § 3.34(b), or for the issuance of a subpoena requiring access to documents or other tangible things, for the purposes described in § 3.37(a), in the possession, custody, or control of a governmental agency other than the Commission or the officials or employees of such other agency, or for the issuance of a subpoena requiring the appearance of an official or employee of another governmental agency, or for the issuance of a subpoena to be served in a foreign country, shall be made in the form of a written motion filed in accordance with the provisions of § 3.22(a). No application for records pursuant to § 4.11 of this chapter or the Freedom of Information Act may be filed with the Administrative Law Judge.

(b) *Content.* The motion shall satisfy the same requirements for a subpoena under § 3.34 or a request for production or access under § 3.37, together with a specific showing that:

(1) The material sought is reasonable in scope:

(2) If for purposes of discovery, the material falls within the limits of discovery under § 3.31(c)(1), or, if for an adjudicative hearing, the material is reasonably relevant;

(3) The information or material sought cannot reasonably be obtained by other means; and

(4) With respect to subpoenas to be served in a foreign country, that the party seeking discovery has a good faith belief that the discovery requested would be permitted by treaty, law, custom or practice in the country from which the discovery is sought and that any additional procedural requirements have been or will be met before the subpoena is served.

(c) *Execution.* If an ALJ issues an Order authorizing a subpoena pursuant to this section, the moving party may forward to the Secretary a request for the authorized subpoena, with a copy of the authorizing Order attached. Each such subpoena shall be signed by the Secretary; shall have attached to it a copy of the authorizing Order; and shall be served by the moving party only in conjunction with a copy of the authorizing Order.

14. Amend § 3.39 by revising the first sentence of paragraph (a), introducing text to read as follows:

§ 3.39 Orders requiring witnesses to testify or provide other information and granting immunity.

(a) Where Commission complaint counsel desire the issuance of an order requiring a witness or dependent to testify or provide other information and granting immunity under 18 U.S.C. 6002, Directors and Deputy Directors of Bureaus, Assistant Directors in the Bureau of Competition, Associate Directors in the Bureau of Consumer Protection, and Regional Directors and Assistant Regional Directors of Commission Regional Offices having responsibility for presenting evidence in support of the complaint are authorized to determine: * * *

15. Amend § 3.42 as follows:

a. Removes the ''and'' at the end of paragraph (c)(10);

b. Redesignating present paragraph (c)(11) as paragraph (c)(12) and

c. adding new paragraph (c)(11) the additional reads as follows:

§ 3.42 Presiding officials.

* * * * *

(c) * * *

(11) To reject written submissions that fail to comply with rule requirements, or deny *in camera* status without prejudice until a party complies with all relevant rules; and

* * * * *

16. Amend § 3.43 by revising paragraph (b) to read as follows:

§ 3.34 Evidence.

* * * * *

(b) *Admissibility; exclusion of relevant evidence; mode and order of interrogation and presentation.* (1) Relevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, and unreliable evidence shall be excluded. Evidence, even if relevant, may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or if the evidence would be misleading, or by considerations of undue delay, waste of time, or needless presentations of cumulative evidence. The Administrative Law Judge shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—

(i) Make the interrogation and presentation effective for the ascertainment of the truth.

(ii) Avoid needless consumption of time; and

(iii) Protect witnesses from harassment or undue embarrassment.

(2) As respondents are in the best position to determine the nature of documents generated by such respondents and which come from their own files, the burden of proof is on the respondent to introduce evidence to rebut a presumption that such documents are authentic and kept in the regular course of business. *See Lenox, Inc.,* 73 F.T.C. 578, 603–04 (1968.

* * * * *

17. Amend § 3.44 by revising the last sentence of paragraph (c) to read as follows:

§ 3.44 Record.

* * * * *

(c) *Closing of the hearing record.* * * * The Administrative Law Judge shall retain the discretion to permit or order correction of the record as provided in § 3.44(b).

* * * * *

18. Revise § 3.45 to read as follows:

§ 3.45 In camera orders.

(a) *Definition.* Except as hereinafter provided, material made subject to an *in camera* order will be kept confidential and not placed on the public record of the proceeding in which it was submitted. Only respondents, their counsel, authorized Commission personnel, and court personnel concerned with judicial review may have access thereto, provided that the Administrative Law Judge, the Commission and reviewing courts may disclose such *in camera* material to the extent necessary for the proper disposition of the proceeding.

(b) *In camera treatment of material.* A party or third party may obtain *in camera* treatment for material, or portions thereof, offered into evidence only by motion to the Administrative Law Judge. Parties who seek to use material obtained from a third party subject to confidentiality restrictions must demonstrate that the third party has been given at least ten (10) days notice of the proposed use of such material. Each such motion must include an attachment containing a copy of each page of the document in question on which *in camera* or otherwise confidential excerpts appear. The Administrative Law Judge may order that such material, whether admitted or rejected, be placed *in camera* only after finding that its public disclosure will likely result in a clearly defined, serious injury to the person, partnership or corporation requesting *in camera* treatment. This finding shall be based on the standard articulated in *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961); *see also Bristol-Myers Co.,* 90 F.T.C. 455, 456 (1977), which established a three-part test that was modified by *General Foods Corp.,* 95 F.T.C. 352, 355 (1980). The party submitting material for which *in camera* treatment is sought must provide, for each piece of such evidence and affixed to such evidence, the name and address of any person who should be notified in the event that the Commission intends to disclose *in camera* information in a final decision. No material, or portion thereof, offered into evidence, whether admitted or rejected, may be withheld from the public record unless it falls within the scope of an order issued in accordance with this section, stating the date on which *in camera* treatment will expire, and including:

(1) A description of the material;

(2) A statement of the reasons for granting *in camera* in treatment; and

(3) A statement of the reasons for the date on which *in camera* treatment will expire. Such expiration date may not be omitted except in unusual circumstances, in which event the order shall state with specificity the reasons why the need for confidentiality of the material, or portion thereof at issue is not likely to decrease over time, and any other reasons why such material is entitled to *in camera* treatment for an indeterminate period. If an *in camera* order is silent as to duration, without explanation, then it will expire three years after its date of issuance. Material subject to an *in camera* order shall be segregated from the public record and filed in a sealed envelope, or other appropriate container, bearing the title, the docket number of the proceeding, the notation ''*In Camera* Record under § 3.45,'' and the date on which *in camera* treatment expires. If the Administrative Law Judge has determined that *in camera* treatment should be granted for an indeterminate period, the notation should state that fact.

(c) *Release of in camera material. In camera* material constitutes part of the confidential records of the Commission and is subject to the provisions of § 4.11 of this chapter.

(d) *Briefs and other submissions referring to in camera or confidential information.* Parties shall not disclose information that has been granted *in camera* status pursuant to § 3.45(b) or is subject to confidentiality protections pursuant to a protective order in the public version of proposed findings, briefs, or other documents. This provision does not preclude references in such proposed finds, briefs, or other documents to *in camera* or other confidential information or general statements based on the content of such information.

(e) *When in camera or confidential information is included in briefs and other submissions.* If a party includes specific information that has been granted *in camera* status pursuant to § 3.45(b) or is subject to confidentiality protections pursuant to a protective order in any document filed in a proceeding under this part, the party shall file two versions of the document. A complete version shall be marked ''*In Camera*'' or ''Subject to Protective Order,'' as appropriate, on the first page and shall be filed with the Secretary and served by the party on the other parties in accordance with the rules in this part. Submitters of *in camera* or other confidential material should mark any such material in the complete versions of their submissions in a conspicuous matter, such as with highlighting or bracketing. References to *in camera* or confidential material must be supported by record citations to relevant evidentiary materials and associated ALJ *in camera* or other confidentiality rulings to confirm that *in camera* or other confidential treatment is warranted for such material. In addition, the document must include an attachment containing a copy of each page of the document in question on which *in camera* or otherwise confidential excerpts appear, and providing the name and address of any person who should be notified of the Commission's intent to disclose in a final decision any of the *in camera* or otherwise confidential information in the document. Any time period within which these rules allow a party to respond to a document shall run from the date the party is served with the complete version of the document. An expurgated version of the document, marked ''Public Record'' on the first page and omitting the *in camera* and confidential information and attachment that appear in the complete version, shall be filed with the Secretary within five (5) days after the filing of the complete version, unless the Administrative Law Judge or the Commission directs otherwise, and shall be served by the party on the other parties in accordance with the rules in this part. The expurgated version shall indicate any omissions with brackets or ellipses, and its pagination and depiction of text on each page shall be identical to that of the *in camera* version.

(f) *When in camera or confidential information is included in rulings or recommendations of the Administrative Law Judge.* If the Administrative Law

Judge includes in any ruling or recommendation information that has been granted *in camera* status pursuant to § 3.45(b) or is subject to confidentiality protections pursuant to a protective order, the Administrative Law Judge shall file two versions of the ruling or recommendation. A complete version shall be marked ''*In Camera*'' or ''Subject to Protective Order,'' as appropriate, on the first page and shall be served upon the parties. The complete version will be placed in the *in camera* record of the proceeding. An expurgated version, to be filed within five (5) days after the filing of the complete version, shall omit the *in camera* and confidential information that appears in the complete version, shall be marked ''Public Record'' on the first page, shall be served upon the parties, and shall be included in the public record of the proceeding.

(g) *Provisional in camera rulings.* The Administrative Law Judge may make a provisional grant of *in camera* status to materials if the showing required in § 3.45(b) cannot be made at the time the material is offered into evidence but the Administrative Law Judge determines that the interests of justice would be served by such a ruling. Within twenty (20) days of such a provisional grant of *in camera* status, the party offering the evidence or an interested third party must present a motion to the Administrative Law Judge for a final ruling on whether *in camera* treatment of the material is appropriate pursuant to § 3.45(b). If no such motion is filed, the Administrative Law Judge may either exclude the evidence, deny *in camera* status, or take such other action as is appropriate.

19. Amend § 3.46 by revising the last sentence of paragraph (b)(7) and the last sentence of paragraph (c)(4) to read as follows:

§ 3.46 Proposed findings, conclusions and order.

* * * * *

(b) * * *

(7) * * * A statement whether the exhibit has been accorded *in camera* treatment, and a citation to the *in camera* ruling. * * *

(c) * * *

(4) * * * A statement identifying any portion of the witness' testimony that was received *in camera,* and a citation to the *in camera* ruling.

* * * * *

20. Amend § 3.51 by removing paragraph (c)(3) and adding a sentence to the beginning of paragraph (c)(1) to read as follows:

§ 3.51 Initial decision.

* * * * *

(c) *Content.* (1) An initial decision shall be based on a consideration of the whole record relevant to the issues decided, and shall be supported by reliable and probative evidence. * * *

* * * * *

21. Revise § 3.52 to read as follows:

§ 3.52 Appeal from initial decision.

(a) *Who may file; notice of intention.* Any party to a proceeding may appeal an initial decision to the Commission by filing a notice of appeal with the Secretary within ten (10) days after service of the initial decision. The notice shall specify the party or parties against whom the appeal is taken and shall designate the initial decision and order or part thereof appealed from. If a timely notice of appeal is filed by a party, any other party may thereafter file a notice of appeal within five (5) days after service of the first notice, or within ten (10) days after service of the initial decision, whichever period expires last.

(b) *Appeal brief.* The appeal shall be in the form of a brief, filed within thirty (30) days after service of the initial decision, and shall contain, in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(ii) A concise statement of the case, which includes a statement of facts relevant to the issues submitted for review, and a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;

(iii) A specification of the questions intended to be urged;

(iv) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each question, with specific page references to the record and the legal or other material relied upon; and

(v) A proposed form of order for the Commission's consideration instead of the order contained in the initial decision.

(2) The brief shall not, without leave of the Commission, exceed 18,750 words, including all footnotes and other substantive matter but excluding the cover, table of contents, table of authorities, glossaries, proposed form of order, appendices containing only sections of statutes or regulations, and any attachment required by § 3.45(e).

(c) *Answering brief.* Within thirty (30) days after service of the appeal brief, the appellee may file an answering brief, which shall contain a subject index, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto, as well as arguments in response to the appellant's appeal brief. However, if the appellee is also cross-appealing, its answering brief shall also contain its arguments as to any issues the party is raising on cross-appeal, including the points of fact and law relied upon in support of its position on each question, with specific page references to the record and legal or other material on which the party relies in support of its cross-appeal, and a proposed form of order for the Commission's consideration instead of the order contained in the initial decision. If the appellee does not cross-appeal, its answering brief shall not, without leave of the Commission, exceed 18,750 words. If the appellee cross-appeals, its brief in answer and on cross-appeal shall not, without leave of the Commission, exceed 26,250 words. The word count limitations of this paragraph include all footnotes and other substantive matter but exclude the cover, table of contents, table of authorities, glossaries, proposed form of order, appendices containing only sections of statutes or regulations, and any attachment required by § 3.45(e).

(d) *Reply brief.* Within seven (7) days after service of the appellee's answering brief, the appellant may file a reply brief, which shall be limited to rebuttal of matters in the answering brief and shall not, without leave of the Commission, exceed 18,750 words. If the appellee has cross-appealed, any party who is the subject of the cross-appeal may, within thirty (30) days after service of such appellee's brief, file a reply brief, which shall be limited to rebuttal of matters in the appellee's brief and shall not, without leave of the Commission, exceed 18,750 words. The appellee who has cross-appealed may, within seven (7) days after service of a reply to its cross-appeal, file an additional brief, which shall be limited to rebuttal of matters in the reply to its cross-appeal and shall not, without leave of the Commission, exceed 11,250 words. The word count limitations of this paragraph include all footnotes and other substantive matter but exclude the cover, table of contents, table of authorities, glossaries, proposed form of order, appendices containing only sections of statutes or regulations, and any attachment required by § 3.45(e). No further briefs may be filed except by leave of the Commission.

(e) *In camera information.* If a party includes in any brief to be filed under this section information that has been granted *in camera* status pursuant to § 3.45(b) or is subject to confidentiality provisions pursuant to a protective order, that party shall file two versions of the brief in accordance with the procedures set forth in § 3.45(e). The time period specified by this section within which a party may file an answering or reply brief will begin to run upon service on the party of the *in camera* or confidential version of a brief.

(f) *Signature.* (1) The original of each brief filed shall have a hand-signed signature by an attorney of record for the party, or in the case of parties not represented by counsel, by the party itself, or by a partner if a partnership, or by an officer of the party if it is a corporation or an unincorporated association.

(2) Signing a brief constitutes a representation by the signer that he or she has read it; that to the best of his or her knowledge, information, and brief, the statements made in it are true; that it is not interposed for delay; that it complies with the applicable word count limitation; and that to the best of his or her knowledge, information, and belief, it complies with the other rules in this part. If a brief is not signed or is signed with intent to defeat and purpose of this section, it may be stricken as sham and false and the proceeding may go forward as though the brief has not been filed.

(g) *Designation of appellant and appellee in cases involving cross-appeals.* In a case involving an appeal by complaint counsel and one or more respondents, any respondent who has filed a timely notice of appeal and as to whom the Administrative Law Judge has issued an order to cease and desist shall be deemed an appellant for purposes of paragraphs (b), (c), and (d) of this section. In a case in which the Administrative Law Judge has dismissed the complaint as to all respondents, complaint counsel shall be deemed the appellant for purposes of paragraphs (b), (c), and (d) of this section.

(h) *Oral argument.* All oral arguments shall be public unless otherwise ordered by the Commission. Oral arguments will be held in all cases on appeal to the Commission, unless the Commission otherwise orders upon its own initiative or upon request of any party made at the time of filing his brief. Oral arguments before the Commission shall be reported stenographically, unless otherwise ordered, and a member of the Commission absent from an oral argument may participate in the consideration and decision of the appeal in any case in which the oral argument is stenographically reported. The purpose of oral argument is to emphasize and clarify the written argument appearing in the briefs and to answer questions. Reading at length from the briefs or other texts is not favored.

(i) *Corrections in transcript of oral argument.* The Commission will entertain only joint motions of the parties requesting corrections in the transcript of oral argument, except that the Commission will receive a unilateral motion which recites that the parties have made a good faith effort to stipulate to the desired corrections but have been unable to do so. If the parties agree in part and disagree in part, they should file a joint motion incorporating the extent of their agreement, and, if desired, separate motions requesting those corrections to which they have been unable to agree. The Secretary, pursuant to delegation of authority by the Commission, is authorized to prepare and issue in the name of the Commission a brief ''Order Correcting Transcript'' whenever a joint motion to correct transcript is received.

(j) *Briefs of amicus curiae.* A brief of an amicus curiae may be filed by leave of the Commission granted on motion with notice to the parties or at the request of the Commission, except that such leave shall not be required when the brief is presented by an agency or officer of the United States; or by a State, territory, commonwealth, or the District of Columbia, or by an agency or officer of any of them. The brief may be conditionally field with the motion for leave. A motion for leave shall identify the interest of the applicant and state how a Commission decision in the matter would affect the applicant or persons it represents. The motion shall also state the reasons why a brief of an amicus curiae is desirable. Except as otherwise permitted by the Commission, an amicus curiae shall file its brief within the time allowed the parties whose position as to affirmance or reversal the amicus brief will support. The Commission shall grant leave for a later filing only for cause shown, in which event it shall specify within what period such brief must be filed. A motion for an amicus curiae to participate in oral argument will be granted only for extraordinary reasons.

(k) *Extension of word count limitation.* Extensions of word count limitation are disfavored, and will only be granted where a party can make a strong showing that undue prejudice would result from complying with the existing limit.

PART 4—MISCELLANEOUS RULES

22. Revise the authority citation for Part 4 to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

23. Revise § 4.2 to read as follows:

§ 4.2 Requirements as to form, and filing of documents other than correspondence.

(a) *Filing.* (1) Except as otherwise provided, all documents submitted to the Commission, including those addressed to the Administrative Law Judge, shall be filed with the Secretary of the Commission; *Provided*, *however,* That informal applications or requests may be submitted directly to the official in charge of any Bureau, Division, or Office of the Commission, or to the Administrative Law Judge.

(2) Documents submitted to the Commission in response to a Civil Investigative Demand under section 20 of the FTC Act shall be filed with the custodian or deputy custodian named in the demand.

(b) *Title.* Documents shall clearly show the file or docket number and title of the action in connection with which they are filed.

(c) *Paper and electronic copies of and service of filings before the Commission, and of filings before an ALJ in adjudicative proceedings.* (1) Except as otherwise provided, each document filed before the Commission, whether in an adjudicative or a nonadjudicative proceeding, shall be filed the Secretary of the Commission, and shall include a paper original, twelve (12) paper copies, and an electronic copy (in ASCII format, WordPerfect, or Microsoft Word). Except as otherwise provided, each document filed by a party in an adjudicative proceeding before an ALJ shall be filed with the Secretary of the Commission, and shall include a paper original, one (1) paper copy and an electronic copy (in ASCII format, WordPerfect, or Microsoft Word).

(2) The first page of the paper original of each such document shall be clearly labeled either public, or *in camera* or confidential. If the document is labeled *in camera* or confidential, it must include as an attachment either a motion requesting *in camera* or otherwise confidential treatment, in the form prescribed by § 3.45(b), or a copy of a Commission, ALJ, or federal court order granting such treatment. The document must also include as a separate attachment a set of only those pages of document on which the *in*

camera or otherwise confidential material appears.

(3) The electronic copy of each such public document shall be filed by e-mail, as the Secretary shall direct, in a manner that is consistent with technical standards, if any, that the Judicial Conference of the United States establishes, except that the electronic copy of each such document containing *in camera* or otherwise confidential material shall be placed on a diskette so labeled, which shall be physically attached to the paper original, and not transmitted by e-mail. The electronic copy of all documents shall include a certification by the filing party that the copy is a true and correct copy of the paper original, and that a paper copy with an original signature is being filed with the Secretary of the Commission on the same day by other means.

(4) A paper copy of each such document in an adjudicative proceeding shall be served by the party filing the document or person acting for that party on all other parties pursuant to § 4.4, at or before the time the paper original is filed.

(d) *Paper and electronic copies of all other documents filed with the Commission.* Except as otherwise provided, each document to which paragraph (c) of this section does not apply, such as public comments in Commission proceedings, may be filed with the Commission in either paper or electronic form. If such a document contains nonpublic information, it must be filed in paper form with the Secretary of the Commission, and the first page of the document must be clearly labeled confidential. If the document does not contain any nonpublic information, it may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) by e-mail, as the Commission or the Secretary may direct.

(e) *Form.* (1) Documents filed with the Secretary of the Commission, other than briefs in support of appeals from initial decisions, shall be printed, typewritten, or otherwise processed in permanent form and on good unglazed paper. A motion or other paper filed in an adjudicative proceedings shall contain a caption setting forth the title of the case, the docket number, and a brief descriptive title indicating the purpose of the paper.

(2) Briefs filed on an appeal from an initial decision shall be in the form prescribed by § 3.52(e).

(f) *Signature.* (1) The original of each document filed shall have a hand signed signature by an attorney of record or the party, or in the case of parties not represented by counsel, by the party itself, or by a partner if a partnership, or by an officer of the party if it is a corporation or an unincorporated association.

(2) Signing a document constitutes a representation by the signer that he or she has read it; that to the best of his or her knowledge, information, and belief, the statements made in it are true; that it is not interposed for delay; and that to the best of this or her knowledge, information, and belief, it complies with the rules in this part. If a document is not signed or is signed with intent to defeat the purposed of this section, it may be stricken as sham and false and the proceeding may go forward as though the document had not been filed.

(g) *Authority to reject documents for filing.* The Secretary of the Commission may reject a document for filing that fails to comply with Commission's rules. In cases of extreme hardship, the Secretary may excuse compliance with a rule regarding the filing of documents if the Secretary determines that the non-compliance would not interfere with the functions of the Commission.

24. Amend § 4.3 by adding new paragraph (d) to read as follows:

§ 4.3 Time.

* * * * *

(d) *Date of filing.* Documents must be received in the office of the Secretary of the Commission by 5:00 p.m. Eastern time to be deemed filed that day. Any documents received by the agency after 5:00 p.m. will be deemed filed the following business day.

25. Amend § 4.4 by revising paragraph (a)(3), by revising the first and second sentences of paragraph (b) and by revising paragraph (c) to read as follows:

§ 4.4 Service.

(a) * * *

(3) All documents served in adjudicative proceedings under the Commissions' Rules of Practice, 16 CFR Part 3, other than complaints and initial, interlocutory, and final decisions and orders, may be served by personal delivery (including delivery by courier), or by first-class mail, and shall be deemed served on the day of the personal delivery or the day of mailing.

* * * * *

(b) *By other parties.* Service of documents by parties other than the Commission shall be by delivering copies thereof as follows: Upon the Commission, by personal delivery (including delivery by courier) or delivery by first-class mail to the Office of the Secretary of the Commission and, in adjudicative proceedings under the Commission's Rules of Practice, 16 CFR Part 3, to the lead complaint counsel, that Assistant Director in the Bureau of Competition, the Associate Director in the Bureau of Consumer Protection, or the Director of the Regional Office of compliant counsel, with a copy to the Administrative Law Judge. Upon a party other than the Commission or Commission counsel, service shall be by personal delivery (including delivery by courier) or delivery by first-class mail with a copy to the Administrative Law Judge. * * *

(c) *Proof of service.* In an adjudicative proceeding under the Commission's Rules of Practice, 16 CFR Part 3, papers presented for filing shall contain proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Proof of service must appear on or be affixed to the papers filed.

26. Amend § 4.9 by redesignating current paragraphs (b)(10)(xiii) and (b)(10)(xiv) as paragraph (b)(10)(xiv) and (b)(10)(xv) and adding a new paragraph (b)(10)(xiii) to read as follows:

§ 4.9 The Public Record.

* * * * *

(b) *Categories* * * *

(10) *Miscellaneous* * * *

(xiii) Annual filings by professional boxing sanctioning organizations as required by the Muhammed Ali Boxing Reform Act, 15 U.S.C. 6301 note, 6307a–6307h;

* * * * *

27. Amend § 4.10 by revising paragraph (g)(1) to read as follows:

§ 4.10 Nonpublic material.

* * * * *

(g) Material obtained by the Commission:

(1) Through compulsory process and protected by section 21(b) of the Federal Trade Commission Act, 15 U.S.C. 57b–2(b) or voluntarily in lieu thereof and designated by the submitter as confidential and protected by section 21(f) of the Federal Trade Commission Act, 15 U.S.C. 57b–2(f), and § 4.10(d) of this part; or

* * * * *

Dated: Approved by the Commission on March 27, 2001.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–8045 Filed 4–2–01; 8:45 am]

BILLING CODE 6750–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 120–4110a ; FRL–6961–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conversion of the Conditional Approval of the 15 Percent Plan and 1990 VOC Emission Inventory for the Pittsburgh-Beaver Valley Ozone Nonattainment Area to a Full Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to convert its conditional approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania to a full approval. This revision satisfies the 15 percent reasonable further progress plan (15% plan) requirements of the Clean Air Act (the Act) for the Metropolitan Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is converting its prior conditional approval of the Pittsburgh 15% plan to full approval because the Commonwealth submitted revisions to the SIP that satisfy the conditions listed in EPA's conditional approval. EPA is also taking direct final action to convert its prior conditional approval of the 1990 volatile organic compound (VOC) base year emissions inventory for the Pittsburgh area to a full approval. The intended effect of this action is to convert the conditional approval of the Commonwealth's 15% plan and its associated 1990 VOC base year inventory for the Pittsburgh area to a full approval. This action is being taken by EPA in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on June 4, 2001, without further notice, unless EPA receives adverse written comment by May 3, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. They are also available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, by phone at: (215) 814–2176 (at the EPA Region III address above), or by e-mail at: rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 22, 1998, the Pennsylvania Department of Environmental Protection submitted a revision to the Pennsylvania State Implementation Plan (SIP) for the Pittsburgh-Beaver Valley moderate ozone nonattainment area (the Pittsburgh area). The Pittsburgh area consists of seven counties in Southwestern Pennsylvania (Allegheny, Armstrong, Butler, Beaver, Fayette, Washington, and Westmoreland Counties). The July 22, 1998 SIP revision submittal consists of amendments to the Commonwealth's plan to achieve a 15% reduction from 1990 base year levels in volatile organic compound (VOC) emissions. The previous 15% plan SIP submitted by Pennsylvania for the Pittsburgh area was conditionally approved by EPA on January 14, 1998 (63 FR 2147). The Commonwealth's July 1998 revision to the 15% plan for the Pittsburgh area was submitted to address the conditions imposed by EPA in its January 14, 1998 conditional approval of the 15% plan for the area.

These conditions were primarily related to one of the control measures in the SIP upon which the 15% plan is dependent for emissions reductions—the Pennsylvania enhanced inspection and maintenance (I/M) program. At the time EPA conditionally approved the 15% plan SIP, the Commonwealth's I/M SIP had also been conditionally approved. EPA also conditioned approval of the 15% plan because of inconsistencies in the emissions estimates for two point sources in the 1990 VOC base year inventory. Because the 1990 base year emissions inventory was conditionally approved for this reason, and because the 15% plan is calculated on the basis of the 1990 inventory, EPA also placed a similar inventory-related condition upon its approval of the 15% plan in its January 14, 1998 conditional approval.

EPA is converting the January 14, 1998 (63 FR 2147) conditional approval of Pennsylvania's 15% plan for the Pittsburgh nonattainment area to a full approval. The basis for this conversion from conditional to full approval is that Pennsylvania has remedied all the conditions imposed by EPA in its January 14, 1998 conditional approval action. The revised 15% plan emissions target level has been achieved through reductions for the measures claimed in the 15% plan.

II. How Pennsylvania's Revision Satisfies the Conditions Imposed by EPA in Its Conditional Approval

As stated above, the subject of this rulemaking is Pennsylvania's July 22, 1998 revision to the Pittsburgh 15% plan, submitted by the Commonwealth to address conditions imposed by EPA upon its January 14, 1998 approval of the original 15% plan and the 1990 baseline VOC emissions inventory submitted as part of that plan. As stated earlier, those conditions relate to the Federal approval status of the I/M program SIP (upon which the 15% plan relies), the modeled credits for the I/M program, and the 1990 VOC baseline emissions inventory (which is used in the calculation of the 15% reduction). Remodeling of the highway mobile source portion of the projected 1996 VOC emission inventory (i.e., I/M program credits remodeling) necessitates a re-evaluation of the 15% plan ''target level'' calculation. However, only those aspects of the revised target level calculation associated with the conditions of EPA's approval are the subject of this rulemaking action. For purposes of clarity, however, the entire calculation process is set forth below.

A. Base Year Emission Inventory

The baseline from which the required reductions towards the 15% plan goal are applied is the 1990 base year emission inventory. The first step in calculating a 15% target is a 1990 base year inventory. The inventory is broken down into four emissions source sectors: stationary, or point, sources; area sources; on-road, or highway, mobile sources; and off-highway, or non-road, mobile sources. The 1990 base year inventory includes emissions from all sources within the nonattainment area and certain large point sources within twenty-five miles of the boundary. For purposes of planning reasonable further progress towards attainment (e.g., 15% planning), a subset of the 1990 base year inventory is used. This 1990 rate-of-progress (ROP) inventory includes only anthropogenic emissions that occurred within the boundaries of the subject nonattainment area. EPA conditioned approval of Pennsylvania's 1990 base

year inventory SIP revision (and the 15% plan, which is dependent upon the 1990 base year inventory) for Pittsburgh on January 14, 1998 (63 FR 2147). The basis for EPA's approval condition was that the inventory lacked final estimates for two stationary VOC emissions sources—J&L Specialty Steel, Inc. and Indspec Chemical Corp. Pennsylvania submitted final estimates for these two sources as part of a July 22, 1998 revised 15% plan SIP. As a result of this revision, the 1990 base year inventory now includes J & L Specialty Steel—Midland's 1990 VOC emissions of 850.4 pounds per day, and Indspec Chemical—Petrolia's 1990 VOC emissions of 1022.4 pounds per day. The result is an overall addition to 1990 point source VOC emissions of 0.90 tons per day from the level EPA conditionally approved on January 14, 1998. This revised inventory serves as the basis for calculation of the 15% plan target level, for purposes of achieving the required 15% VOC reduction. A comparison of the differences between the conditionally approved 1990 base year inventory and the revised base year inventory is provided in the technical support document (TSD) prepared for this action.

B. Growth in Emissions Between 1990 and 1996

EPA interprets the Clean Air Act to require that reasonable further progress towards attainment of the ozone standard must occur after offsetting any growth in the level of emissions expected to occur over the period being considered. To meet the 15% reasonable further progress requirement, a state must enact measures to offset projected growth in VOC emissions, in addition to a 15% reduction of 1996 VOC emissions (compared with 1990 levels). EPA approved the Commonwealth's emission growth estimates and imposed no conditions related to those estimates in its January 14, 1998 conditional approval of the 15% plan for the Pittsburgh area. A detailed description of the growth methodologies used by Pennsylvania can be found in the January, 14 1998 conditional approval and in the TSD prepared for that rulemaking.

C. 15% Plan Emissions Control Measures and Their Associated Emissions Reductions

The remaining conditions imposed by EPA in its January 14, 1998 conditional approval of the Pittsburgh 15% plan relate to the enhanced I/M program. The first of these conditions related to the approval status of the I/M program at the time EPA took action on the 15% plan. Because the I/M program was conditionally approved, the 15% plan had to be conditionally approved to require that Pennsylvania ''meet the conditions listed in the January 28, 1997 conditional interim inspection and maintenance (I/M) rulemaking (approval) notice''. The other I/M-related condition required Pennsylvania to remodel the I/M reductions claimed in the plan, using an EPA guidance memoranda entitled, ''Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance'', from Gay McGregor and Sally Shaver, dated December 23, 1996. This EPA policy memo (along with another entitled, ''Date by which States Need to Achieve All the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation,'' from John Seitz and Margo Oge, dated August 13, 1996) provided EPA's guidance on how to take credit for I/M in light of program implementation delays that caused programs to start after the 1996 deadline for achieving the 15% reduction in VOCs.

With respect to the approval status of its I/M program SIP, Pennsylvania has since revised its I/M program SIP, and the revised I/M SIP was fully approved by EPA on June 17, 1999 (64 FR 32411). Therefore, the condition on the 15% plan related to conditions imposed by EPA in our prior approval of the I/M SIP has now been remedied. With respect to the 15% plan approval condition related to emissions reductions from the I/M program, Pennsylvania has addressed this condition by remodeling the benefits of the I/M program (per EPA's guidance), and submitting that remodeling analysis as part of its July 22, 1998 revised 15% plan SIP. A discussion of the resultant recalculation of the highway mobile source emissions and the revised 15% plan target levels associated with this remodeling are discussed later in this document. EPA believes that Pennsylvania has properly followed EPA guidance in conducting this remodeling analysis.

D. Target Level/Emission Reductions Needed for the 15% Reduction

As part of its remodeling analysis to determine needed reductions toward the 15% plan from I/M, Pennsylvania remodeled the benefits from all of its 15% plan control measures that reduce highway source emissions (i.e., those modeled using the MOBILE emission factor model). In addition to the enhanced I/M program, this includes the 15% plan reductions from post-1990 emissions standards for new cars and light-duty trucks. These standards, which are part of the Federal Motor Vehicle Control Program (FMVCP), are commonly referred to as the ''Tier 1'' emissions standards. EPA concurs with the Commonwealth's remodeling demonstration as submitted in the July 22, 1998 revised 15% plan SIP. This revised plan properly accounts for the ''target level'' of 1996 emissions, with which projections of 1996 ''controlled'' emissions are then compared. EPA also concurs with the revised mobile source target level calculation for the Pittsburgh area, and the resultant overall corrected target level. The overall corrected target level is 312.94 tons per day (tpd). A description of the revised target level calculation process is summarized below, and in more detail in the TSD prepared by EPA for this rulemaking action.

E. Summary of the Revised Target Level Calculation / I/M Remodeling Process

EPA's interpretation of section 182(b) of the Clean Air Act requires states to adjust the base year VOC emission inventory for the 15% plan to account for non-creditable VOC reductions (i.e., that were required to occur prior to the 1990 Clean Air Act Amendments). In calculating its target level, reductions that occurred between 1990 and 1996 from the pre-1990 FMVCP and low-RVP gasoline programs are subtracted from the 1990 15% plan base inventory. The result is the ''1990 base year inventory adjusted to 1996.''

EPA's applicable remodeling guidance requires that the base year inventory be calculated, relative both to 1996 and to 1999. The base year inventory (relative to 1999) must then be adjusted in the same way to remove non-creditable, pre-1990 control measure reductions from the inventory for the period from 1990 to 1999. Pennsylvania's 15% plan contains the required calculation of the non-creditable reductions that occurred between 1996 and 1999. That non-creditable reduction must then be subtracted from the 1990 15% plan base year inventory. The result is the ''1990 base year inventory adjusted to 1999.'' Pennsylvania then calculated a ''base'' 1996 VOC target level by taking 85% of the 1990 adjusted base year inventory for 1996. This base target level is then corrected by subtracting the previously calculated non-creditable reductions from the ''base'' 1996 VOC target level to yield the final 1996 VOC target level for the 15% plan. See Table 1 below, for a summary of the calculation of the target level.

TABLE 1.—REQUIRED REDUCTIONS FOR THE PITTSBURGH-BEAVER VALLEY METROPOLITAN OZONE NONATTAINMENT AREA 15% PLAN (TONS/DAY)

[Revised 15% Plan Target Level / I/M Remodeling Calculation]

Steps	Calculation method	Tons per day (tpd)
1990 Rate-of-Progress Base Year Inventory		403.79
1. Calculate the 1990 base year inventory (relative to 1996).	[1996 MOBILE factor (w/ CAA controls off) × 1990 VMT] + non-mobile 1990 inventory	374.92
2. Calculate the 1996 base year inventory (relative to 1999).	[1999 MOBILE factor (w/ CAA controls off) × 1990 VMT] + non-mobile 1990 inventory	369.18
3. Calculate non-creditable fleet turnover between 1996 and 1999.	1990 base (for 1996) − 1990 base (for 1999); or, (Step 2 − Step 1)	5.74
4. Calculate the ''base'' 1996 target level	1990 adjusted base (for 1996) × 0.85 − RACT Fix-Ups; or, (Step 1 × 0.85) − RACT fix-ups (if any).	318.68
5. Calculate the ''final'' 1996 target level	1996 target level − non-creditable 1996–1999 emissions; or, (Step 4 − Step 3)	312.94
6. Projected 1996 Controlled Inventory (as remodeled)	remodeled highway emissions + remainder of existing 1996 projected inventory (i.e., point, area, non-road emissions) [95.07[1] + 61.61 + 117.53 + 29.14].	303.35

[1] Pennsylvania July 22, 1998 SIP revision lists 1996 controlled highway emissions of 102.45 tons per day in an introductory SIP target calculation summary table. However, supporting information contained in appendices to the SIP documents this figure as 95.07 tons per day. EPA believes the 102 tpd figure is an error, and is proposing to approve the SIP based upon the 95 tpd figure. Use of either figure, however, would not jeopardize the ability of the plan to achieve the required 15% reduction.

The revised 15% plan provides for sufficient VOC emissions reductions to meet the calculated 15% plan ''target level'' of emissions—i.e., the revised 15% SIP demonstrates emissions will fall below 303.3 tons per day versus the calculated target level of 312.9 tons per day. EPA is approving this final, corrected target level for the Pittsburgh-Beaver Valley 15% plan.

The Commonwealth's July 22, 1998 revised 15% SIP has satisfied the conditions listed by EPA in its January 14, 1998 (63 FR 2147) conditional approval of the Pittsburgh 15% plan and its underlying 1990 base year VOC emissions inventory.

F. Determination That Revised 15% Plan Achieves Reasonable Further Progress

As part of the 15% plan I/M remodeling process the base year VOC inventory, target level, and projected reduction levels from the control measures claimed in the15 % plan have been recalculated since EPA granted conditional approval to the SIP in January of 1998. As part of its revision to the 15% plan SIP, the Commonwealth demonstrated that the control measures in the 15% plan originally approved by EPA continue to ensure sufficient reductions are achieved to meet the revised target level. Under the revised plan, the emissions reductions claimed for the Pittsburgh 15% plan increased from 65.68 tons per day (from the prior conditionally approved SIP) to 74.79 tons per day.

EPA agrees with the Commonwealth's calculations and methodology used in the revised plan to justify this number. EPA supports the Commonwealth's emissions reductions claimed for the control measures in the 15% plan. Pennsylvania properly employed EPA's guidance in calculating its revised 15% plan target and in meeting that target. EPA, therefore, concurs that Pennsylvania must achieve at least 70.17 tons per day in creditable emission reductions to demonstrate that the Pittsburgh-Beaver Valley ozone nonattainment area has met its 15% VOC reduction requirement. EPA has determined that Pennsylvania's revised 15% plan has sufficient reductions (from creditable control measures) to achieve the required 15% reduction. Pennsylvania claims 74.79 tons per day of creditable reductions, which is sufficient to ensure that reasonable further progress is achieved.

Table 2 below summarizes the creditable measures, and the reductions associated with those measures, for Pennsylvania's 15% plan for the Pittsburgh area. It should be noted that these constitute the same measures that EPA approved in our January 14, 1998 conditional approval of the Pittsburgh 15% plan. However, due to the I/M remodeling analysis, the level of credits associated with the highway mobile source control measures (i.e., the I/M program and Tier 1 motor vehicle emissions standards) has changed. Because these measures and credit levels were approved by EPA previously, this rulemaking action applies only to the revised credit levels associated with the highway mobile source controls.

TABLE 2.—SUMMARY OF CONTROL MEASURES FOR THE 15% PLAN FOR THE PITTSBURGH-BEAVER VALLEY OZONE NONATTAINMENT AREA

Control measure	Approved by EPA	VOC reduction (tons per day)
Highway Mobile Source Control Measures:		
Enhanced I/M Program	SIP approved [June 17, 1999 (64 FR 32411)]	17.08
Tier 1 Motor Vehicle Standards (post-1990 FMVCP)	Federal rule	10.56
Non-Highway Measures (Point, Area, Non-road):		
Benzene National Emission Standard for Hazardous Air Pollutant (NESHAP)	Federal rule	35.20
AIM Coatings Reformulation	Federal rule	5.05
Consumer & Commercial Products Reformulation	Federal rule	4.35
Autobody Refinishing Reformulation	Federal rule	2.55
Total Creditable Emission Reductions		74.79

G. Transportation Conformity Budgets

As is the case with any 15% plan, Pennsylvania's 15% plan for its portion of the Pittsburgh-Beaver Valley ozone nonattainment area contains a budget for VOC emissions from on-road mobile sources. However, this budget would be superceded by subsequent plan submittals (e.g., the budget contained in a maintenance plan).

For the most recent information of the motor vehicle budget that applies to the Pittsburgh area, please consult EPA's ''Adequacy Review of SIP Submissions for Conformity'' web page at *http://www.epa.gov/oms/transp/conform/adequacy.htm,* or contact the EPA Regional office listed in the **ADDRESSES** section above.

III. Final Action

EPA is converting its January 14, 1998 (63 FR 2147) conditional approval of the 15% plan and the 1990 VOC emission inventory for the Pittsburgh-Beaver Valley ozone nonattainment area to a full approval. EPA's review of Pennsylvania's July 22, 1998 revision to the 15% plan SIP for the Pittsburgh area indicates that the Commonwealth has remedied all the conditions imposed by EPA in its January 14, 1998 conditional approval (63 FR 2147) of the Pittsburgh area 15% plan including the condition imposed on its approval of the 1990 base year VOC emission inventory for the Pittsburgh area.

EPA is publishing this rule without prior proposal because the Agency views the conversion of its conditional approval of the Pittsburgh area's 15% plan and its associated 1990 base year VOC emission inventory to a full approval as noncontroversial and anticipates no adverse comment. The Commonwealth has satisfied the conditions imposed in EPA's January 14, 1998 conditional approval and has followed all applicable EPA guidance in doing so. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to convert its conditional approval of the Pittsburgh area's 15% plan and its associated 1990 base year VOC emission inventory to a full approval if adverse comments are filed. This rule will be effective on June 4, 2001, without further notice unless EPA receives adverse comment by May 3, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Administrative Requirements

A. General Requirements

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this direct final approval action to convert the January 14, 1998 conditional approval (63 FR 2147) of the Commonwealth's 15% plan and its associated 1990 base year VOC emission inventory for the Pittsburgh-Beaver Valley area must be filed in the United States Court of Appeals for the appropriate circuit by June 4, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 22, 2001.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

2. Section 52.2026(d) and (e) are removed and reserved.

3. In section 52.2036, paragraph (d) is added to read as follows:

§ 52.2036 1990 Baseyear Emissions Inventory.

* * * * *

(d) EPA grants full approval to the 1990 VOC emission inventory for the Pittsburgh ozone nonattainment area, which was provided by Pennsylvania as an element of a March 22, 1996 submittal of the 15 Percent Rate-of-Progress Plan for the Pittsburgh-Beaver Valley ozone nonattainment area. Supplemental 1990 VOC inventory information and estimates were submitted by the Secretary of the Department of Environmental Protection on February 19, 1997 and on July 22, 1998, as formal amendments to the Pittsburgh 15 Percent Plan for Pittsburgh. EPA grants full approval to the final 1990 VOC emissions inventory estimates contained in Pennsylvania's July 22, 1998 SIP revision (which serves to supplement the 1990 VOC inventory information contained in Pennsylvania's March 22, 1996 and February 19, 1997 Pittsburgh-Beaver Valley 15% plan SIP revisions). The approved plan contains 1990 base year point, area, highway, and non-road mobile VOC emissions estimates for the 7-county Pittsburgh-Beaver Valley ozone nonattainment area (Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties).

* * * * *

4. Section 52.2038 is added to read as follows:

§ 52.2038 Rate of Progress Plans: ozone.

EPA grants full approval to Pennsylvania's 15 Percent Rate of Progress Plan for the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Secretary of the Pennsylvania Department of Environmental Protection on March 22, 1996, as formally revised on February 18, 1997 and on July 22, 1998.

[FR Doc. 01–8021 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[WT Docket No. 99–168; CS Docket No. 98–120; MM Docket No. 00–39; DA 01–788]

Clearing of the 740–806 MHz Band; Conversion to Digital Television; Pleading Cycle Established for Responses to Petitions for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule; deadline for filing oppositions to petitions for reconsideration.

SUMMARY: This document informs the public that the deadline for filing oppositions to petitions for reconsideration of the *Third Report and Order* in the Commission's 700 MHz band proceeding (published on February 14, 2001) is April 10, 2001, and the deadline for filing replies to such oppositions is April 20, 2001. These are expedited deadlines, which are necessary to give the Commission an opportunity to provide timely guidance to prospective bidders and incumbent broadcasters regarding issues raised by petitions for reconsideration in advance of the upcoming auction of licenses in the 747–762 and 777–792 MHz band (Auction No. 31).

DATES: Oppositions are due on or before April 10, 2001, and replies are due on or before April 20, 2001.

ADDRESSES: Parties who choose to file on paper should send an original and eight copies of their filing to the Office of the Secretary, Federal Communications Commission, TW B204, 445 12th Street, SW., Washington, DC 20554. In addition, parties should send two copies to: Nese Guendelsberger, Legal Branch, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th St. SW., Washington, DC 20554 (or via e-mail (*nguendel@fcc.gov*), preferably in .pdf format), and one copy to ITS, Room CY–B400, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Wireless Telecommunications Bureau: Nese Guendelsberger, (202) 418–0660, e-mail: *nguendel@fcc.gov*, or Bill Huber, (202) 418–0660, e-mail: *whuber@fcc.gov*. Mass Media Bureau: Gordon Godfrey, (202) 418–2193, e-mail: *ggodfrey@fcc.gov*, or Clay Pendarvis, (202) 418–1600, e-mail: *cpendarv@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released March 29, 2001. The complete text of the Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center (CY–A257), 445 12th Street, SW., Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), Room CY–B400, 445 12th Street, SW., Washington, DC 20554, (202) 837–3800. It is also available on the Commission's web site at *http://www.fcc.gov*.

1. Notice is hereby given that the parties listed have petitioned the Commission for reconsideration and clarification of the *Third Report and Order* in WT Docket No. 99–168, CS Docket No. 98–120, and MM Docket No. 00–39, FCC 01–25, released January 23, 2001. *See* 66 FR 10204 (February 14, 2001). In the *Third Report and Order*, the Commission adopted mechanisms and made determinations intended to facilitate the clearing of the 740–806 MHz band to allow for the introduction of new wireless services, and to promote the early transition of analog television licensees to digital television service.

2. In light of the upcoming auction of licenses in the 747–762 and 777–792 MHz band (Auction No. 31), which is scheduled to commence on September 12, 2001, good cause exists in this instance to alter the periods specified in § 1.429 of the Commission's rules, 47 CFR 1.429, for the filing of oppositions to petitions for reconsideration and replies to oppositions. The petitions filed by the parties listed seek reconsideration or clarification of a number of the policies and procedures adopted in the *Third Report and Order,* which are relevant to the transition of the 746–806 MHz band from broadcast to wireless uses. An expedited schedule will give the Commission an opportunity to provide timely guidance regarding these issues to prospective bidders and incumbent broadcasters in advance of Auction No. 31. Accordingly, oppositions to petitions for reconsideration of the *Third Report and Order* shall be filed no later than April 10, 2001, and replies to oppositions will be due no later than April 20, 2001.

Procedural Matters

3. Parties submitting oppositions or replies should address the issues raised in the petitions for reconsideration in light of the relevant statutory requirements, procedures, and public interest considerations. All responsive filings should reference the docket numbers of this proceeding, *i.e.,* WT Docket No. 99–168, CS Docket No. 98–120, and MM Docket No. 00–39.

4. This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must reflect the substance of the presentations and not merely list the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

5. Parties may obtain copies of the *Third Report and Order* and petitions for reconsideration at the FCC website, *http://www.fcc.gov/e-file/ecfs.html.* The petitions are also available for public inspection and copying in the Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. Copies of the petitions are also available from ITS, Room CY–B400, 445 12th Street, SW., Washington, DC 20554, or by calling (202) 857–3800.

6. Oppositions to petitions for reconsideration and replies may be filed using the Commission's Electronic Comment Filing System (''ECFS'') or by filing paper copies. Oppositions and replies filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Each filing should be submitted into each of the following dockets: 99–168, 98–120, and 00–39. In completing the transmittal screen, parties should include their full name and Postal Service mailing address. Parties may also submit an electronic filing by Internet e-mail. To get filing instructions for e-mail filings, parties should send an e-mail message to *ecfs@fcc.gov,* including ''get form to <your e-mail address>'' in the body of the message. A sample form and directions will be sent in response.

7. Listed are the parties filing Petitions for Reconsideration and Clarification in WT Docket No. 99–168, CS Docket No. 98–120, and MM Docket No. 00–39:

(i) Association for Maximum Service Television, Inc. (March 16, 2000)

(ii) Spectrum Clearing Alliance (March 16, 2000) (joint filing of broadcasters and other entities interested in band clearing policies)

(iii) Spectrum Exchange Group, LLC (March 16, 2000)

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 01–8157 Filed 3–30–01; 10:07 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000501119–0119–01; I.D. 031501B]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustments From Cape Falcon, OR to Humbug Mountain, OR

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

ACTION: Inseason adjustments; request for comments.

SUMMARY: NMFS announces that the commercial and recreational fisheries for all salmon except coho, in the areas from Cape Falcon, OR to Humbug Mountain, OR will open April 1, 2001, and continue through dates to be determined in the 2001 management measures for 2001 ocean salmon fisheries in the U.S. exclusive economic zone (EEZ). This action is necessary to conform to the 2000 announcement of management measures for year 2001 salmon seasons opening earlier than May 1, 2001, and is intended to ensure access to the year 2001 chinook salmon optimum yield.

DATES: Effective April 1, 2001, until the effective date of the year 2001 management measures, which will be published in the **Federal Register** for the West Coast salmon fisheries. Comments will be accepted through April 18, 2001.

ADDRESSES: Comments on this action must be mailed to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; fax 206–526–6376; or Rebecca Lent, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; fax 562–980–4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: William Robinson, 206–526–6140, or Svein Fougner, 562–980–4030.

SUPPLEMENTARY INFORMATION: In the 2000 annual management measures for ocean salmon fisheries (65 FR 26138, May 5, 2000), NMFS announced that the Pacific Fishery Management Council (Council) would consider at its March 2001 meeting a recommendation to open commercial and recreational seasons for all salmon except coho in areas of the EEZ off Oregon. Due to the timing of the March and April Council meetings, where the major 2001 salmon seasons are developed, this action is necessary to implement the opening of these seasons prior to May 1, 2001.

At the March 2001 meeting, the Council made its inseason recommendations to open the recreational and commercial fisheries, for all salmon except coho, from Cape Falcon, OR to Humbug Mountain, OR on April 1, 2001. The closing dates for both fisheries will be recommended during the April 2001 meeting when the entire 2000 management measures for the 2001 ocean salmon fisheries are adopted by the Council.

The recreational fishery for all salmon except coho, from Cape Falcon, OR to Humbug Mountain, OR opens on April 1, 2001. The daily possession limit is two fish per day, with no more than six fish retained in 7 consecutive days. The minimum size limit is 20 inches (50.8 cm). Allowed gear is artificial lures and plugs of any size, or bait no less than 6 inches (15.2 cm) long (excluding hooks and swivels). All gear must have no more than two single-point, single-shank, barbless hooks. Divers are prohibited and flashers may only be used with downriggers. Oregon State regulations describe a closure at the mouth of Tillamook Bay.

The commercial fishery for all salmon except coho, from Cape Falcon, OR to Humbug Mountain, OR opens on April 1, 2001. Single point, single shank barbless hooks are required. No more than four spreads are allowed per line. The minimum size limit is 26 inches (66.0 cm) (19.5 in (49.5 cm) head-off). Chinook not less than 26 inches (66.0 cm) (19.5 inches (49.5 cm) head-off) taken during open seasons south of Cape Falcon may be landed north of Cape Falcon only while the season is

closed north of Cape Falcon. Oregon state regulations describe a closure at the mouth of Tillamook Bay.

The Regional Administrator consulted with representatives of the Council, Washington Department of Fish and Wildlife, Oregon Department of Fish and Wildlife, and the California Department of Fish and Game regarding these adjustments at the March 2001 Council meeting in Portland, OR. As provided by the inseason notification procedures at 50 CFR 660.411, actual notice to fishermen of these actions will be given prior to 0001 hours local time, April 1, 2001, by telephone hotline number, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

Because of the need for immediate action to open the seasons as proposed, NMFS has determined that good cause exists for this document to be issued without affording a prior opportunity for public comment. This document does not apply to other fisheries that may be operating in other areas.

Classification

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

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

Dated: March 27, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–8164 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 64
Tuesday, April 3, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–60–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Model 412 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for the Bell Helicopter Textron, Inc. (BHTI) Model 412 high landing gear aft crosstube assembly (crosstube assembly) that would have required determining the number of landings, inspecting for damage, vibro-etching a part number (P/N) and a serial number (S/N), creating a component history card or equivalent record, establishing a retirement life, and replacing each unairworthy crosstube assembly. Since the issuance of the NPRM, the FAA has determined that the NPRM contained incorrect part numbers. Also, the FAA is conducting a more thorough review of the service history to determine whether a yearly inspection of the crosstube assembly is a better corrective action. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to adopt a new AD for BHTI Model 412 helicopters was published in the **Federal Register** on November 15, 2000 (65 FR 68953). The proposed rule would have contained the following requirements for certain crosstube assemblies:

- Reviewing the aircraft maintenance records to determine the number of landings;
- Inspecting for damage and replacing any unairworthy crosstube assembly;
- Vibro-etching a P/N on the crosstube assembly;
- Vibro-etching a S/N on the crosstube assembly;
- Creating a component history card or equivalent record; and
- Establishing a retirement life of 10,000 landings for crosstube assemblies, P/N 412–050–010–101 and 412–050–011–107 FM, and a retirement life of 20,000 landings for crosstube assemblies, P/N 412–050–045–107.

That action was prompted by reports of failures indicating that a retirement life should be assigned to the crosstube assembly. The proposed actions were intended to detect damage that could lead to a fatigue crack and failure of the crosstube assembly and subsequent loss of control of the helicopter during landing.

Since the issuance of that NPRM, the FAA has received new data from the manufacturer indicating that the NPRM contained incorrect part numbers. The FAA has also gathered more failure data and service history of certain crosstube assemblies.

Upon further consideration and review of this new data, the FAA has determined that the NPRM contained incorrect part numbers. Also, after reviewing the service history, the FAA has determined that assigning a retirement life to the crosstube assembly might not adequately address the unsafe condition. However, the FAA is still reviewing the failure data and service history to determine whether to require yearly inspections of certain crosstube assemblies to more adequately address the unsafe condition. Accordingly, we have decided to withdraw the proposed rule.

Withdrawal of this NPRM constitutes only such action and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the NPRM, Docket No. 2000–SW–60–AD, published in the **Federal Register** on November 15, 2000 (65 FR 68953), is withdrawn.

Issued in Fort Worth, Texas, on March 22, 2001.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–8147 Filed 4–2–01; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL204–1; FRL–6960–7]

Approval and Promulgation of Air Quality Implementation Plans; State of Illinois; Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Through parallel processing, the EPA is proposing to approve a draft statewide rule to control the emissions of Oxides of Nitrogen (NO_X) from Electric Generating Units (EGUs) in the State of Illinois. Illinois submitted this rule for parallel processing on October 20, 2000. The rule, when finalized and adopted by the State, will provide NO_X emission reductions to support attainment of the one-hour ozone standard in the Metro-East/St. Louis ozone nonattainment area. Significant changes in the rule between the version reviewed here and the final adopted version, other than those changes resulting from issues discussed in this proposed rulemaking, will result in a new EPA proposed rulemaking on Illinois' subsequent submittal of the adopted rule. Otherwise the EPA will proceed with final rulemaking when the adopted rule is submitted by the State.

DATES: Written comments must be received on or before May 3, 2001.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S.

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and other relevant materials are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please telephone Edward Doty at (312) 886–6057 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Edward Doty, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–6057, E-Mail Address: doty.edward@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms ''you'' and ''me'' refer to the reader of this proposed rulemaking and to sources subject to the State rule addressed by this proposed rulemaking, and the terms ''we,'' ''us,'' or ''our'' refers to the EPA.

Table of Contents

I. Background
- A. What is a State Implementation Plan (SIP)?
- B. What is the Federal approval process for a SIP?
- C. What does Federal approval of a state regulation mean to me?
- D. What Clean Air Act requirements apply to or led to the State's submittal of the NO_X emission control rule?
- E. What analyses and EPA rulemaking actions support the need for the NO_X emission control rule?

II. Summary of the State Submittal
- A. When was the NO_X emission control rule submitted to the EPA?
- B. Has the rule been adopted by the State?
- C. What are the basic components of the State's rule?
- D. What public review opportunities have been or will be provided by the State for this rule?

III. EPA Review of the Draft Rule
- A. Does the rule adequately support the attainment of the ozone standard in the Metro-East/St. Louis ozone nonattainment area?
- B. What other criteria were considered to judge the approvability of the rule and does the rule meet these criteria?
- C. Is the rule approvable?

IV. Proposed Action
- A. What action is EPA proposing today?
- B. What happens if Illinois significantly changes the rule during the adoption process?

V. Administrative Requirements

I. Background

A. What Is a State Implementation Plan (SIP)

Section 110 of the Clean Air Act (Act or CAA) requires states to develop air pollution control regulations and strategies to ensure that state air quality meets the national ambient air quality standards established by the EPA. Each state must submit the regulations and emission control strategies to the EPA for approval and promulgation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its points of origin. The SIPs can be and generally are extensive, containing many state regulations or other enforceable documents and supporting information, such as emission inventories, monitoring documentation, and modeling demonstrations (attainment demonstrations).

B. What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and emission control strategies consistent with state and Federal requirements. This process generally includes public notice, public hearings, public comment periods, and formal adoption by state-authorized rulemaking bodies.

Once a state rule, regulation, or emissions control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action (they are generally addressed in a final rulemaking action).

This rule is being parallel processed. Parallel processing means that EPA proposes action on a state rule before it becomes final under state law. Under parallel processing, EPA takes final action on its proposal if the final, adopted state submission is substantially unchanged from the submission on which the proposed rulemaking was based, or if significant changes in the final submission are anticipated and adequately described in EPA's proposed rulemaking or result from needed corrections determined by the State to be necessary through review of issues described in EPA's proposed rulemaking.

All state regulations and supporting information approved by the EPA under section 110 of the Act are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, titled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR, but are ''incorporated by reference,'' which means that EPA has approved a given state regulation (or rule) with a specific effective date.

C. What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of a state regulation before and after it is incorporated into a Federally approved SIP is primarily a state responsibility. After the regulation is Federally approved, however, EPA is authorized to take enforcement actions against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the Act.

D. What Clean Air Act Requirements Apply to or Led to the State's Submittal of the NO_X Emission Control Rule?

The Act requires the EPA to establish National Ambient Air Quality Standards (NAAQS) for certain air pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. Clean Air Act sections 108 and 109. In 1979, EPA promulgated an one-hour ozone standard of 0.12 parts per million (ppm) or 120 parts per billion (ppb) to protect public health. 44 FR 8202 (February 8, 1979).

Ground-level ozone is generally not directly emitted into the air by sources. Rather, Volatile Organic Compounds (VOC) and NO_X, both emitted by a wide variety of sources, react in the presence of sunlight to form additional pollutants, including ozone. NO_X and VOC are referred to as precursors of ozone.

The Act, as amended in 1990, required EPA to designate as nonattainment any area that was violating the one-hour ozone standard, generally based on air quality monitoring data from the 1987 through 1989 period. Clean Air Act section 107(d)(4); 56 FR 56694 (November 6, 1991). The Act further classified these ozone nonattainment areas, based on the areas' ozone design values (generally the fourth highest daily peak one-hour ozone concentrations over a three year period at the areas' worst-case ozone monitoring sites) as marginal, moderate, serious, severe, or extreme. Marginal areas were experiencing the least significant ozone nonattainment problems (lowest ozone design values

and generally fewer ozone standard exceedences per year), while the areas classified as severe and extreme had the most significant ozone nonattainment problems.

The control requirements and the dates by which attainment of the ozone standard are to be achieved vary with an area's classification. Marginal areas were subject to the fewest mandated emission control requirements and had the earliest attainment date (deadline), November 15, 1993. Moderate areas were subject to more stringent planning and emission control requirements, but were provided more time to attain the ozone standard, until November 15, 1996. Severe and extreme areas are subject to even more stringent planning and control requirements, but are also provided more time to attain the ozone standard. Serious nonattainment areas fall in between moderate nonattainment areas and severe nonattainment areas in terms of planning requirements and mandated emission control requirements.

The Metro-East/St. Louis area was classified as moderate nonattainment for ozone, giving it an attainment date of November 15, 1996. This area is defined to contain Madison, Monroe, and St. Clair Counties in Illinois (the Metro-East portion of the nonattainment area), and Franklin, Jefferson, St. Charles, and St. Louis Counties and St. Louis City in Missouri. 40 CFR 81.314 and 81.326.

The Act requires moderate and above ozone nonattainment areas to be addressed in SIPs through ozone attainment demonstrations, including adopted emission control regulations sufficient to achieve the ozone standard by the applicable ozone attainment date. The requirements of the Act for ozone attainment demonstrations for moderate and above ozone nonattainment areas are determined by considering several sections of the Act. Section 172(c)(6) of the Act requires SIPs to include enforceable emission limitations, and such other control measures, means or techniques as well as schedules and timetables for compliance, as may be necessary to provide for attainment by the applicable attainment date. Section 172(c)(1) of the Act requires the implementation of reasonably available control measures (including Reasonably Available Control Technology [RACT] for stationary industrial sources), and requires the SIP to provide for sufficient annual reductions in emissions of VOC and NO_X as necessary to attain the ozone standard by the applicable attainment date. Section 182(j)(1)(B) requires the use of photochemical grid modeling or other methods judged to be at least as effective to demonstrate attainment of the ozone standard in multi-state moderate ozone nonattainment areas (the Metro-East/St. Louis ozone nonattainment area is such an area). The attainment demonstrations based on photochemical grid modeling address the emission impacts of both VOC and NO_X.

The NO_X emission control regulations (collectively referred to as the NO_X rule) addressed in this proposed rulemaking are intended to meet the requirements for the ozone attainment demonstration for the Metro-East/St. Louis ozone nonattainment area.

E. What Analyses and EPA Rulemaking Actions Support the Need for the NO_X Emission Control Rules?

On October 27, 1998, the EPA promulgated a NO_X SIP call (requiring the development of NO_X SIPs and rules) for a number of states, including the State of Illinois. The NO_X SIP call requires the subject States to develop NO_X emission control regulations on a regional basis (generally statewide) of sufficient nature to provide for statewide NO_X emissions at or below prescribed state-wide NO_X emission budgets in 2007. The regional NO_X emission reductions will address ozone formation and transport in the area of the Country primarily east of the Mississippi River, but will also affect the Metro-East/St. Louis area as a whole. Although the NO_X SIP call will impact the Metro-East/St. Louis area, it should be noted that the State of Illinois has not submitted the NO_X rule reviewed here for the purpose of meeting the requirements of the NO_X SIP call. As noted by the Illinois Environmental Protection Agency (IEPA), the IEPA has submitted the NO_X rule reviewed here strictly for the purpose of attaining the one-hour ozone standard in the Metro-East/St. Louis area.

Illinois is adopting NO_X rules to address the NO_X SIP call, and has submitted adopted and proposed (draft) rules for this purpose. On June 29, 2000, the IEPA submitted a draft NO_X rule for EGUs to comply with the NO_X SIP call. The EPA proposed action on this draft rule on August 31, 2000. 65 FR 52967. Illinois adopted this rule and submitted it to the EPA on December 27, 2000. This NO_X SIP call-based rule is currently undergoing separate review. The possible actions reflected in today's proposed rulemaking in no way relate to the State's EGU NO_X rule under the NO_X SIP call. The NO_X rule reviewed here is another, separate rule affecting EGUs, and will be supplemented by the NO_X SIP call-based rules when they are adopted by the State.

The State of Illinois has the primary responsibility under the Act for ensuring that all portions of Illinois meet the ozone standard, and is required to submit air quality attainment and maintenance plans that specify emission limitations, control measures, and other measures necessary for attainment, maintenance, and enforcement of the NAAQS within the State. The attainment plan for ozone must meet the CAA requirements discussed above, must be adopted pursuant to notice and comment rulemaking, and must be submitted to the EPA for approval as part of the SIP.

The States of Illinois and Missouri have worked cooperatively to provide the EPA with ozone attainment demonstrations for this area. Analyses conducted to support the attainment demonstrations for this area indicate that regional reductions in upwind NO_X emissions are needed to reduce the transport of ozone into this area and to support the adopted ozone attainment demonstrations. These regional reductions in NO_X emissions include control of NO_X emissions from EGUs in Illinois and Missouri along with control of NO_X emissions in other upwind States. The ozone attainment demonstration for Illinois (undergoing separate review by the EPA) is based, in part, on limiting NO_X emissions from EGUs throughout Illinois to an emissions rate of no higher than 0.25 pounds NO_X per million British thermal units of heat input (0.25 pounds NO_X/MMBtu of heat input). The Missouri EGU NO_X emission rates would be limited to 0.25 pounds NO_X/MMBtu of heat input in the eastern one-third of the State and to 0.35 pounds NO_X/MMBtu of heat input in the western two-thirds of the State. For other impacting upwind States, the Illinois and Missouri ozone attainment demonstration assumes that EGU NO_X emissions would be limited to 0.25 pounds NO_X/MMBtu of heat input.

At the time the original attainment demonstrations were prepared for the Metro-East/St. Louis ozone nonattainment area (the original attainment demonstrations were reviewed by the EPA in proposed rulemaking on April 17, 2000, 65 FR 20404), the IEPA and the Missouri Department of Natural Resources (MDNR) assumed that the upwind States would be required to achieve the 0.25 pounds NO_X/MMBtu emission rate limits for EGUs (or even tighter NO_X emission limits) by May 1, 2003 based on the October 1998 NO_X SIP call. A subsequent, August 30, 2000, Court decision (*Michigan* v. *EPA,* No. 98–1497, District of Columbia Circuit Court

of Appeals) supported the NO_X SIP call, but delayed its compliance date to May 31, 2004. The IEPA and MDNR have revised the ozone attainment demonstrations to reflect the delay in the upwind emission reductions and to demonstrate attainment of the one-hour standard by May 31, 2004 (the revised attainment demonstrations are undergoing separate review and will be addressed in a separate proposed rulemaking). The revised ozone attainment demonstrations continue to support the EGU 0.25 pounds NO_X/MMBtu emission limit for Illinois and the EGU 0.25/0.35 pounds NO_X/MMBtu emission limits for Missouri as being adequate to achieve attainment of the one-hour ozone standard in the Metro-East/St. Louis ozone nonattainment area.

In the April 17, 2000 proposed rulemaking on the Illinois and Missouri ozone attainment demonstrations, the EPA proposed to approve the attainment demonstrations, but proposed to disapprove the attainment demonstrations in the alternative if the States failed to submit a proposed NO_X emission control rule for EGUs by June 2000 and final, adopted regional NO_X emission control rules for EGUs by December 2000 to support the ozone attainment demonstrations. The State of Missouri submitted its state-wide EGU NO_X regulations on June 29, 2000. The EPA proposed to approve these regulations on August 24, 2000. 65 FR 51564. The EPA gave final approval to these regulations on December 28, 2000. 65 FR 82285.

On June 29, 2000, the IEPA submitted a draft statewide NO_X rule for EGUs to comply with the NO_X SIP call. As noted in EPA's August 31, 2000 proposed rulemaking, the draft rule establishes a source compliance date contingent on the final date of the EPA approval of NO_X SIP call-based rule for contiguous States (contiguous to Illinois) and for other States in Region 5 of the EPA or the promulgation of Federal Implementation Plans (FIPs) for these States by the EPA. Based on its August 31, 2000 proposed rulemaking, the EPA has determined that the contingent compliance date of Illinois' draft EGU NO_X SIP call-based rule could jeopardize the attainment of the one-hour standard in the Metro-East/St. Louis area by a fixed date. Recognizing this concern of the EPA, the IEPA has developed a draft EGU NO_X rule with a fixed compliance date and emission rate limit that matches the statewide NO_X emission control reflected in the Metro-East/St. Louis ozone attainment demonstration. This draft EGU NO_X rule is the subject of this proposed rulemaking. As noted above, this draft NO_X rule does not displace the EGU NO_X rule developed by the State to comply with the NO_X SIP call, but would be supplemented by the EGU NO_X SIP call-based rule at a later time. The proposed rule reviewed here would assure earlier emission reductions than those resulting from the NO_X SIP call-based rules.

II. Summary of the State Submittal

A. When Was the NO_X Emission Control Rule Submitted to the EPA?

The IEPA submitted the draft 0.25 EGU NO_X rule to the EPA on October 20, 2000.

B. Has the Rule Been Adopted by the State?

On October 16, 2000, the IEPA submitted the 0.25 EGU NO_X rule to the Illinois Pollution Control Board (IPCB) for the purposes of adoption by the State. To date, the IPCB has not adopted this rule. The IPCB held public hearings on this rule on November 28, 2000 and December 14, 2000. Adoption of the rule by the State is expected to occur in April 2001.

This rule is draft and is subject to future revision through the public comment and adoption processes of the State. The IEPA has requested the EPA to parallel process the rule. The IEPA expects to provide the final rule to the EPA when the State rulemaking process is completed in the Spring of 2001.

C. What Are the Basic Components of the State's Rule?

The rule reviewed here is proposed to constitute subpart V (Electric Power Generation) of part 217 of Illinois' air pollution control rules. It should be noted that, on August 31, 2000 (65 FR 52967), the EPA proposed rulemaking for NO_X controls under subpart W of part 217 of Illinois' air pollution control rules. The subpart W rule was developed by the State to comply with EPA's NO_X SIP call, and will also affect sources affected by subpart V. As noted above, the subpart V rule is designed to achieve emission controls consistent with Illinois' and Missouri's ozone attainment demonstration for the Metro-East/St. Louis ozone nonattainment area and will be implemented by date certain. The subpart W rule will be implemented in addition to the subpart V rule, further reducing the NO_X emissions from EGUs, but may not be implemented by date certain and in time to meet the ozone standard attainment date supported by the Illinois and Missouri ozone attainment demonstrations. It should be further noted that this proposed rulemaking on the subpart V NO_X control rule must be viewed as being independent of the NO_X SIP call-related rulemakings. In no way is the subpart V rule intended by the State to comply with the requirements of EPA's NO_X SIP call.

The following summarizes various aspects of the Subpart V rule.

1. What Geographic Region and Sources Will Be Affected by the Rule?

Section 217.700 of the rule states that the subpart V rule would control the emissions of NO_X from EGUs throughout the State of Illinois for the period of May 1 through September 30 each year beginning in 2003.

Section 217.704 of the rule defines the fossil fuel-fired stationary boilers, combustion turbines, and combined cycle systems to be considered as EGUs and subject to the subpart V rule. The subject units are defined to be one of the following:

(1) Any unit serving a generator that has a nameplate capacity greater than 25 megawatts of electrical output (25 MWe) and produces electricity for sale, excluding units listed in appendix D of part 217 of the State's air pollution control rule; or

(2) Any unit with a maximum design heat input that is greater than 250 MMBtu per hour that commences operation on or after January 1, 1999, serving at any time a generator that has a nameplate capacity of 25 MWe or less and has the potential to use more than 50 percent of the potential electrical output capacity of the unit. Fifty (50) percent of a unit's potential electrical output capacity shall be determined by multiplying the unit's maximum design heat input by 0.0488 MWe per MMBtu.

2. What Are the Allowable NO_X Emission Rates or Levels for Affected Sources?

Section 217.706 of the subpart V rule specifies the NO_X emission limitations for the affected sources. Following the compliance deadline (see item 4 below), the NO_X emissions from affected sources are limited to 0.25 pounds of NO_X per MMBtu of actual heat input during each control period (May 1 through September 30), based on a control period average for each unit. Any EGU subject to more stringent NO_X emission limitations pursuant to any State or Federal statute, including the State's Clean Air Act, and the Federal Clean Air Act must comply with both the requirements of subpart V and the more stringent limitations.

3. What Are the Compliance Options for the Affected Sources?

The affected sources must meet the emission limitation requirement of this rule through compliance with the emission limit at the sources themselves or, for certain specified sources, may meet the emission limitation requirement through inter-source averaging between various EGUs. Direct compliance (compliance through the use of emission controls at the EGUs themselves and not through inter-EGU emissions averaging) with the emission limitation would probably entail the use of combustion process modifications, fuel substitutions, or catalytic or non-catalytic reduction technology. (The rule reviewed here does not specify the control techniques to be used, but these are generally the NO_X control techniques employed for EGUs to achieve this emission rate limit.) Direct compliance does include averaging of emission rates at the sources over each control period (May 1 through September 30).

Section 217.708 of the rule specifies the approach and requirements for emissions averaging between specific EGUs within the State of Illinois. Participation in the inter-source (inter-EGU) averaging approach is at the discretion of the source owners or operators themselves. For purposes of compliance with the NO_X SIP call, the State of Illinois is establishing a NO_X emissions trading program. Sources eligible to participate in this program have been specified in appendix F of part 217 of the Illinois air pollution control rule. These sources may participate in inter-source emissions averaging under the subpart V rule. The owner or operator of Soyland Power (an EGU not listed in appendix F) may also choose to comply with subpart V through the inter-source averaging program for any unit at Soyland Power that commenced commercial operation on or before January 1, 2000.

Section 217.708 of subpart V specifies the equation governing the averaging of emissions for units participating in the inter-source averaging program. Compliance through this emissions averaging program must be demonstrated for each EGU by November 30 following each control period beginning in 2003. Averaging of emissions under this rule section must be authorized through federally enforceable permit conditions for each EGU. If inter-source averaging is used to demonstrate compliance with the Subpart V requirements, failure to demonstrate such compliance collectively by all EGUs involved in the inter-source averaging shall result in the subject EGUs each being judged using the 0.25 pounds NO_X per MMBtu of heat input emission limit averaged for each EGU over the emission control period. Only the non-complying EGUs, individually based on this NO_X emission limit, will be the subjects of subsequent enforcement and other EGUs involved in the inter-source averaging shall not be held as responsible for the compliance failure based on the inter-source averaging.

4. What Is the Compliance/Implementation Deadline for the Affected Sources?

All affected sources are subject to the requirements of subpart V on and after May 1, 2003.

5. What Are the Monitoring, Recordkeeping, and Reporting Requirements for Affected Sources?

Section 217.710 of the rule specifies the monitoring requirements for affected sources. The owner or operator of an affected source must install, calibrate, maintain, and operate continuous emission monitoring systems for NO_X that meet the requirements of 40 CFR part 75, subpart B. The owner or operator of a gas-fired peaking unit or an oil-fired peaking unit, as defined in 40 CFR 72.2 may determine NO_X emissions in accordance with the emission estimation protocol of 40 CFR part 75, subpart E.

Section 217.712 of the rule specifies the reporting and recordkeeping requirements for affected sources. The owners or operators of affected sources must comply with the recordkeeping and reporting requirements of 40 CFR part 75 applicable to NO_X emissions during the control period.

For sources (owners or operators of subject EGUs) directly complying with the requirements of subpart V (not complying through inter-source averaging), a report must be submitted to the IEPA by November 30 of each year beginning in 2003 demonstrating that the NO_X emissions from the EGUs have not exceeded the NO_X emission limit (0.25 pounds NO_X per MMBtu of heat input) during the control period based on control period emission rate averages.

For owners or operators of sources choosing to comply through inter-source averaging, by November 30 of each year beginning in 2003, the owners or operators must submit to the IEPA a report that demonstrates or specifies:

(1) For all EGUs participating in the averaging program, the averaged control period NO_X emission rate pursuant to the emission rate averaging equation in section 217.708(b) of subpart V;

(2) The control period average NO_X emission rate of each EGU participating in the averaging program; and

(3) The information required to determine the average NO_X emission rate pursuant to the emission rate averaging equation.

All records and supporting data needed to demonstrate compliance must be kept and maintained by the owners or operators of the subject EGUs for five years. These records and supporting data must be made available for inspection or copying upon the request of the IEPA or the EPA. Requested data and records must also be supplied to the IEPA within 30 days of their written request by the IEPA.

D. What Public Review Opportunities Have Been or Will Be Provided by the State for This Rule?

The IPCB scheduled public hearings on this rule to take place in December 2000 and January 2001. A public hearing on this rule also occurred on February 27, 2001. To date, the EPA has not seen the outcome of these public hearings or other written public comments, but expects such information when the State submits the final, adopted rule in the Spring of 2001.

III. EPA Review of the Draft Rule

A. Does the Rule Adequately Support the Attainment of the Ozone Standard in the Metro-East/St. Louis Ozone Nonattainment Area?

This rule is a critical element in the State's plan to attain the ozone standard in the Metro-East/St. Louis nonattainment area. As part of the modeled emissions control strategy considered in ozone modeling for this area, Missouri and Illinois included NO_X emission reductions for certain sources throughout the two States. Full approval of the ozone attainment demonstration SIPs (Illinois and Missouri) (currently awaiting supplemental proposed and final rulemaking by the EPA) for this area are dependent upon the adoption of regional NO_X emissions control rule sufficient to achieve attainment of the ozone standard. EPA's first proposed rulemaking for the ozone attainment demonstrations was published on April 17, 2000. 65 FR 20404. That proposal includes a detailed discussion of the role of regional NO_X emission reductions in attainment of the ozone standard in the Metro-East/St. Louis area. The NO_X emission limit established in the NO_X rule for Illinois reviewed here is consistent with the

attainment year EGU NO_X emission rate modeled in the ozone attainment demonstrations.

B. What Other Criteria Were Considered To Judge the Approvability of the Rule and Does the Rule Meet These Criteria?

Besides setting emission limits low enough to support the ozone demonstration attainment, the rule must also meet other criteria before it can be approved as part of the SIP. To be approved by the EPA, the rule must also be permanent and enforceable. To be enforceable, the rule must: (1) Have a defined compliance deadline (this deadline must also require the implementation of the rule to occur in sufficient time to provide for the attainment of the standard by the attainment deadline); (2) have adequate record keeping and reporting requirements sufficient to allow a determination of compliance; (3) specify appropriate compliance methods; and (4) provide for or not circumvent EPA enforcement of the rule.

EPA's review of the State rule addressed in this proposed rule shows that it meets these criteria. The compliance requirements (albeit not the specific emission control systems) are specified in the rule. The compliance date is specified and is compatible with the standard attainment date specified in the States ozone attainment demonstration. The recordkeeping and reporting requirements are specified and are acceptable. The EPA is not prevented from enforcing the rule. In fact, the emission trading portion of the rule specifically requires federally enforceable permits for the sources involved in the trading. Finally, the rule is permanent. Although the rule will eventually be supplemented by the requirements of the State's NO_X SIP under EPA's NO_X SIP call, the 0.25 pounds NO_X/MMBtu rule will remain in place, assuring the permanence of the rule.

C. Is the Rule Approvable?

All factors considered above, it is concluded that this rule is approvable.

IV. Proposed Action

A. What Action Is EPA Proposing Today?

The EPA is proposing to approve a draft statewide rule to control the emissions of NO_X from EGUs in support of the ozone attainment demonstration for the Metro-East/St. Louis ozone nonattainment area. Because this proposed approval is based on the review of a draft rule, the EPA is proposing this approval through parallel processing, an action requested by the State of Illinois.

B. What Happens if Illinois Significantly Changes the Rule During the Adoption Process?

Significant changes in the rule between the version reviewed here and the final adopted version, other than those changes resulting from issues discussed in this proposed rulemaking, may result in a new EPA proposed rulemaking on Illinois' subsequent submittal of the adopted rule. If no substantive changes, other than those anticipated or caused by this proposed rulemaking, are found in the final adopted rule, the EPA will proceed with final rulemaking on the rule.

V. Administrative Requirements

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: March 23, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–8020 Filed 4–02–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 120–4110b; FRL–6961–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conversion of the Conditional Approval of the 15 Percent Plan and 1990 VOC Emission Inventory for the Pittsburgh-Beaver Valley Ozone Nonattainment Area to a Full Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to convert its conditional approval of the 15 Percent Reasonable Further Progress Plan (the 15% plan) and its associated 1990 base year volatile organic compound (VOC) emissions inventory for the Pittsburgh-Beaver Valley ozone nonattainment area to a full approval. The Commonwealth of Pennsylvania submitted revisions which satisfy the conditions imposed by EPA in its conditional approval. In the Final Rules section of this **Federal Register**, EPA is converting its conditional approval to a full approval as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no adverse comments. A more detailed description of the state submittals and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 3, 2001.

ADDRESSES: Written comments should be addressed to David Arnold, Chief, Air Quality Planning & Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. They are also available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, at the EPA Region III address above, or by e-mail at rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: March 22, 2001.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–8022 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[IL 196–2; MO 097–1097a; FRL–6961–5]

Approval and Promulgation of Implementation Plans; Illinois and Missouri; One-Hour Ozone Attainment Demonstrations, Motor Vehicle Emissions Budgets, Attainment Date Extension, and Withdrawal of Nonattainment Determination and Reclassification

AGENCY: Environmental Protection Agency.

ACTION: Supplemental proposed rule.

SUMMARY: On April 17, 2000, the Environmental Protection Agency (EPA) proposed to approve or, in the alternative, disapprove the Illinois and Missouri 1-hour ozone attainment demonstration State Implementation Plans (SIP) for the St. Louis moderate ozone nonattainment area. This proposed rule supplements the proposed rule published on April 17, 2000, for this ozone nonattainment area. This proposed rule addresses supplemental state submittals relating to corrections to the 1996 emissions inventory and the Missouri transportation conformity budget called for in the April 17, 2000, proposed rule, and additional submissions by the states relevant to the modeled attainment demonstration and motor vehicle emissions budgets. This proposal also proposes to extend the attainment date for the St. Louis nonattainment area to November 15, 2004. Finally, EPA is proposing to withdraw its March 19, 2001, Determination of Nonattainment and Reclassification if EPA approves an attainment date extension prior to the effective date of the Determination of Nonattainment.

DATES: Written comments must be received on or before May 3, 2001.

ADDRESSES: Written comments should be sent to: Jay Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; or Wayne Leidwanger, Chief, Air Planning and Development Branch, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the states' submittals addressed in this supplemental proposed rule, and other relevant materials are available for public inspection during normal business hours at the following addresses: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604 (please telephone Edward Doty at (312) 886–6057 before visiting the Region 5 office); or U.S. Environmental Protection Agency, Region 7, Air, Radiation, and Toxics Division, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–6057, E-Mail Address: doty.edward@epa.gov; or Royan Teter, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101, Telephone Number (913) 551–7609, E-Mail Address: teter.royan@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions and topics:

Background and Submittal Information

What Is the Scope of This Proposed Rule?

On April 17, 2000, the Environmental Protection Agency (EPA) proposed to approve or, in the alternative, disapprove the Illinois and Missouri 1-hour ozone attainment demonstration State Implementation Plans (SIP) for the St. Louis moderate ozone nonattainment

area. In that proposal, EPA stated that it proposed to disapprove the attainment demonstration if the states did not make the following submissions: (1) Revisions to the attainment demonstration modeling and analyses to incorporate corrections to the 1996 base year emissions inventory and a demonstration of attainment based on the revisions; (2) regional Oxides of Nitrogen (NO_X) emission control regulations for Electric Generating Units (EGU) as needed for the attainment demonstration; and (3) a transportation conformity motor vehicle emissions budget for the Missouri portion of the nonattainment area. The proposal also stated that EPA was proposing to approve an extension of the ozone attainment date for the St. Louis ozone nonattainment area to November 15, 2003, while retaining the area's current classification as a moderate ozone nonattainment area, if EPA takes final action to approve the attainment demonstration.

This proposed rule supplements the proposed rule published on April 17, 2000, for this ozone nonattainment area. This proposed rule addresses supplemental state submittals relating to items (1) and (3) above (corrections to the 1996 emissions inventory and the Missouri transportation conformity budget) called for in the April 17, 2000, proposed rule, and additional submissions by the states relevant to the modeled attainment demonstration and motor vehicle emissions budgets. Missouri has submitted finally adopted revisions to its attainment demonstration and an adopted transportation conformity budget. Illinois has submitted proposed revisions covering these items and plans to submit final revisions in the near future.

With respect to item (2), the regional NO_X rules, Missouri has submitted and EPA has approved a statewide NO_X rule applicable to Missouri called for in the St. Louis attainment demonstration. In a separate action published elsewhere in today's **Federal Register**, EPA is proposing to approve a proposed statewide NO_X rule which will be applicable in Illinois. If, as expected, Illinois submits final revisions to the attainment demonstration and budgets as specified in this proposal, and a finally adopted NO_X rule as specified in the separate notice, EPA believes that the contingencies specified in the April 17, 2000, proposal will have been met, and that EPA can take final action to approve the attainment demonstration for the St. Louis nonattainment area. In addition to proposing to approve the ozone attainment demonstration SIPs, EPA is proposing to approve the transportation conformity motor vehicle emission budgets submitted by Illinois and Missouri for their respective portions of the St. Louis ozone nonattainment area. This proposal also proposes to extend the attainment date for the St. Louis nonattainment area to November 15, 2004. Finally, EPA is proposing to withdraw its March 19, 2001, Determination of Nonattainment and Reclassification if EPA approves an attainment date extension prior to the effective date of the Determination of Nonattainment.

In this proposal, EPA specifically requests comments on the supplemental submissions of the states relating to the revisions to the attainment demonstration and the motor vehicle emissions budgets. EPA also requests comments on its proposal to extend the attainment date to November 15, 2004 (rather than November 15, 2003, as proposed in the April 17, 2000, action). EPA has previously received comments on other aspects of its April 17, 2000, proposal, and will address those comments prior to final action on the attainment demonstration and attainment date extension. In the final action, EPA will also address comments on the Guidance ''Extension of Attainment Dates for Downwind Transport Areas,'' published March 25, 1999, in the **Federal Register**.

What actions or circumstances led to this proposed rule?
Have the states' attainment demonstration SIPs been adopted after proper notice and hearing?
How did the states address the deficiencies identified in our April 17, 2000, proposed rule?
How did the states address the change of the attainment date from November 15, 2003, to November 15, 2004?
Do the analyses support attainment of the 1-hour ozone standard by November 15, 2004?
How do the revised attainment demonstrations address the transportation conformity requirements for motor vehicle emission budgets?
What is the status of emission control regulations for which the attainment demonstration accounts?
What is the Status of the States' Efforts to Qualify for an Attainment Date Extension?
What is EPA proposing regarding the Determination of Nonattainment as of November 15, 1996, and Reclassification, published on March 19, 2001.

EPA's Preliminary Conclusions

Have the states corrected the deficiencies identified in the April 17, 2000, proposed rulemaking?
What is EPA's assessment of the ozone attainment demonstration for the St. Louis ozone nonattainment area?
What is EPA's assessment of the transportation conformity emission budgets for the Illinois and Missouri portions of the St. Louis ozone nonattainment area?
When will EPA address public comments received regarding the April 17, 2000, proposed rulemaking?
What actions are we proposing today?

Administrative Requirements

A. Executive Order 12866
B. Executive Order 13045
C. Executive Order 13084
D. Executive Order 13132
E. Regulatory Flexibility
F. Unfunded Mandates

Background and Submittal Information

What Actions or Circumstances Led to the State Submittals Reviewed in This Supplemental Proposed Rule?

On April 17, 2000 (65 FR 20404), EPA proposed several actions with respect to Illinois' and Missouri's 1-hour ozone attainment demonstration SIPs for the St. Louis ozone nonattainment area. EPA proposed to: (1) Approve the attainment demonstration SIPs; (2) approve an exemption from NO_X emission control requirements for RACT for the Illinois portion of the St. Louis ozone nonattainment area; (3) approve the transportation conformity motor vehicle emissions budget submitted by Illinois for the Illinois portion of the St. Louis ozone nonattainment area; and (4) extend the ozone attainment date for the entire St. Louis ozone nonattainment area to November 15, 2003, while retaining the area's classification as a moderate ozone nonattainment area.

Alternatively, EPA proposed to disapprove the states' attainment demonstration SIPs if: (1) Illinois and Missouri did not revise the attainment demonstration modeling and analyses to incorporate corrections to the 1996 base year emissions inventory and successfully demonstrate attainment of the 1-hour ozone standard based on the revised modeling; (2) Illinois and Missouri did not submit proposed regional NO_X emission control regulations for EGUs by June 2000 and final adopted regional NO_X emission control regulations for EGUs by December 2000; or (3) Missouri did not submit a proposed motor vehicle emissions budget by June 30, 2000.

Final approval of the attainment date extension for the St. Louis nonattainment area and the NO_X RACT exemption for the Illinois portion of the St. Louis ozone nonattainment area were to be contingent on the final approval of the ozone attainment demonstration SIPs. The proposed new attainment date (November 15, 2003) was premised on EPA's October 27, 1998 (63 FR 57356), NO_X SIP call,

which at the time required the implementation of source emission controls by May 1, 2003.

Subsequent to the April 17, 2000, proposed rulemaking, several Court decisions affecting the proposed extended attainment date for the St. Louis nonattainment area have been issued. First, on August 30, 2000, the United States Court of Appeals for the District of Columbia Circuit issued an Order (*Michigan* v. *EPA*, No. 98–1497, August 30, 2000), extending the compliance date for the NO_X SIP call from May 1, 2003, to May 31, 2004. The effect of this ruling is that the regional NO_X emission reductions relied on in the attainment demonstration cannot be assumed to occur before the Court-ordered compliance date. As such, EPA requested that Illinois and Missouri consider the impacts of this ruling on the St. Louis attainment demonstration.

Second, on January 29, 2001, the United States District Court for the District of Columbia ordered EPA to make a determination, no later than March 12, 2001, as to whether the St. Louis nonattainment area attained the requisite 1-hour ozone standard. (*Sierra Club* v. *Whitman*, No. 98–2733 CKK.) On March 8, 2001, EPA informed the Court of the actions that EPA intends to take in response to its Order. While the Court's Order did not directly affect the contents of the attainment demonstrations considered in this proposed rule, its ruling has been considered in the actions which EPA plans to take with regard to them, as later discussed. The state submittals addressed in today's proposed rule were designed to meet the contingencies set forth in our April 17, 2000, proposed rulemaking and account for the additional revisions necessitated by the Court decision in *Michigan* v. *EPA* discussed above.

Have the States' Attainment Demonstration SIPs Been Adopted After Proper Notice and Hearing?

The states submitted the various components of their attainment demonstration SIPs in segments, following key events. In response to our April 17, 2000, proposed rule, Missouri submitted draft transportation conformity budgets via letter dated June 19, 2000. Both Missouri and Illinois transmitted draft revisions (hereafter referred to as the addendum) to their attainment demonstration SIPs on June 29, 2000. Missouri held public hearings on its draft conformity budgets and attainment demonstration revisions on August 31, 2000. They were adopted by the Missouri Air Conservation Commission (MACC) on September 21, 2000, and submitted to EPA in final form on November 2, 2000. Illinois did not hold a separate public hearing on the state's analogous revisions, but referenced them and made them available to the public in association with the revisions that were the subject of public hearings held on February 27, 2001.

On November 2 and 8, 2000, respectively, EPA notified Missouri and Illinois that further revisions to their attainment demonstration SIPs were necessary in light of the August 30, 2000, United States Court of Appeals for the District of Columbia Circuit Order, extending the compliance date for the NO_X SIP call from May 1, 2003, to May 31, 2004. In the same correspondence, EPA, in part, requested that the states revise their attainment year emissions inventories and transportation conformity budgets to reflect emissions in 2004, since their previous submittals gave consideration to 2003. Both states submitted draft responses on November 15, 2000. The MACC held public hearings on these materials on February 6, 2001, and adopted them on February 26, 2001. EPA received Missouri's revised emissions inventory and transportation conformity budgets in final form on March 5, 2001. Illinois held public hearings on its revised emissions inventory and transportation conformity budgets on February 27, 2001. In a March 1, 2001, submittal of the same items, the Illinois Environmental Protection Agency (IEPA) requested that EPA parallel process its draft revisions. IEPA is expected to submit them in final form shortly after the close of the public comment period which ends on March 29, 2001.

How Did the States Address the Deficiencies Identified in Our April 17, 2000, Proposed Rule?

As noted above, the April 17, 2000, proposed rule stated that the final approval of the ozone attainment demonstration for the St. Louis nonattainment area is contingent, in part, upon the states preparing revised modeling to incorporate corrections to the 1996 base year emissions inventory. The addendum to the attainment demonstration presents the results of the revised modeling performed by the IEPA and the Missouri Department of Natural Resources (MDNR) for the 1996 base year. It updates the base year model performance evaluation and demonstrates attainment of the 1-hour standard in the St. Louis area by November 15, 2003. The attainment date was projected to November 15, 2004, in subsequent revisions as discussed below.

The revised modeling analyses were performed using the same ozone modeling system, modeling domain, and historically high ozone episodes as used by both states in their 1999 and 2000 ozone attainment demonstration submittals. For a more complete description of the modeling system, domain, and episodes selected for modeling readers may refer to EPA's April 17, 2000, proposed rule (65 FR 20404). The major change in the analyses conducted for the preparation of the addendum was a revision of the base case emissions inputs. All other parameters were essentially unchanged from those reflected in previous submittals.

Pursuant to EPA's comments regarding the Missouri emissions inventory, MDNR modified the 1996 area source emissions inventory, subsequent to the preparation of the ozone modeling EPA reviewed prior to the April 17, 2000, proposal. Modifications were made to the area source (VOC) and NO_X emissions (both are ozone precursors) in response to Missouri's discovery of erroneous data while performing additional quality assurance checks. The 2003 emissions inventory included in the prior ozone modeling had already been corrected (prior to the ozone modeling discussed in the states' 1999 and 2000 submittals) as result of EPA's comments. This led to a discrepancy in the bases for the 1996 emissions and the 2003 emissions used in the prior ozone modeling. In turn, this led EPA to question the degree of change in ozone concentrations which were predicted to occur between 1996 and 2003. Illinois and Missouri have since revised the 1996 emissions used in the ozone modeling to reflect the same bases as the 2003 emissions and the corresponding estimates of the change in ozone concentrations that will result from the implementation of local and upwind control measures, consistent with the requirements set forth in our April 17, 2000, proposed rule.

The photochemical model was rerun after revising the 1996 VOC and NO_X emissions inventories and its performance was revalidated. The model performance evaluation is an important and required part of the technical analysis process, as it provides EPA with a basis for judging the effectiveness of the selected emission control strategies and provides a measure of the likelihood that the standard will be achieved. Therefore, the revision of the 1996 base year

emissions necessitated the reevaluation of the modeling system performance.

Model performance is assessed by employing statistical tests recommended in EPA's ''Guideline for Regulatory Application of the Urban Airshed Model'' (July 1991, EPA–450/4–91–013). The resulting parameters include unpaired peak prediction accuracy [acceptable range is ± 15–20], normalized bias of all data pairs (modeled versus observed) for ozone concentrations in excess of 60 parts per billion (ppb) [acceptable range is ± 5–15 percent or less], and gross error of all data pairs for ozone concentrations in excess of 60 ppb [acceptable range is 30–35 percent or less]. The results for each ozone episode day were compared to the acceptable ranges as specified in our guidance. Table 1 summarizes the base period modeling result and performance statistics for the selected statistical parameters.

TABLE 1.—FINAL BASECASE MODEL PERFORMANCE STATISTICS

[Entire Grid M Modeling Domain]

Episode day modeled	July 1991				July 1995				
	7/16	7/17	7/18	7/19	7/10	7/11	7/12	7/13	7/14
Observed Peak Level (ppb)	130	140	170	170	125	140	146	178	150
Modeled Base Peak Level (ppb)	136	196	186	155	154	162	171	155	184
Normalized Bias (percent)	**−22.1**	**−20.1**	**−15.2**	−13.6	**−18.9**	**−16.7**	−10.8	−7.9	+1.7
Gross Error (percent)	31.0	34.3	30.1	32.3	27.1	27.5	25.5	24.2	24.2
Unpaired Peak Accuracy (percent)	+4.8	**+40.6**	+9.8	−8.4	**+23.5**	+15.8	+17.2	−12.6	**+23.0**

[Note that statistics shown in bold are outside of accepted ranges.]

ST. LOUIS NONATTAINMENT AREA ONLY

Episode day modeled	July 1991				July 1995				
	7/16	7/17	7/18	7/19	7/10	7/11	7/12	7/13	7/14
Observed Peak Level (ppb)	108	140	114	107	125	136	129	154	139
Modeled Base Peak Level ppb)	117	133	134	111	91	137	130	136	127
Normalized Bias (percent)	**−26.0**	−7.7	−6.8	+2.8	**−44.0**	−7.9	−3.0	−16.9	−2.2
Gross Eror (percent)	29.2	29.5	25.0	18.7	**45.5**	32.6	25.9	24.1	22.7
Unpaired Peak Accuracy (percent	+8.9	−4.6	+17.9	+3.5	**−26.7**	+0.7	+1.2	−11.7	−8.1

[Note that statistics shown in bold are outside of accepted ranges.]

The model performance statistics for the leading days of ozone episodes are generally discounted or ignored. These days are referred to as ''ramp-up'' days. They are included to allow the modeling system to stabilize before it begins simulating the episode days of concern. As such, the modeling system for the St. Louis nonattainment area subdomain is performing in an acceptable manner, despite the out-of-range statistics for July 16, 1991, and July 10, 1995.

The final 2003 modeled attainment strategy assumes that the 22 states affected by EPA's NO_X SIP call, including the eastern one-third of Missouri and all of Illinois, would limit EGU NO_X emission rates to 0.25 pounds per million British thermal units (mmBtu) of heat input by 2003.[1] The

[1] Missouri and Illinois completed the 2003 attainment modeling during a time when final control level for the NO_X SIP call was in litigation. Hence, the modeling considered a level of upwind NO_X control which was less than that of the NO_X SIP call. In the April 17, 2000, proposal, EPA

EGUs in the remainder of the state of Missouri (in the western two-thirds of the state) would be limited to a NO_X emission rate of 0.35 pounds per mmBtu of heat input. The 2003 modeling accounted for the implementation of all other emission controls required by the Clean Air Act (CAA) within upwind states. Table 2 summarizes the revised modeled 1996 and 2003 peak ozone concentrations for the modeled high ozone episodes.

TABLE 2.—MODELED PEAK OZONE CONCENTRATIONS

[Concentrations in parts per billion]

Modeled high ozone episode days	July 1991				July 1995				
	7/16	7/17	7/18	7/19	7/10	7/11	7/12	7/13	7/14
1996 Base Year	117	133	134	111	91	137	130	136	127
2003 Attainment Strategy	106	122	125	105	78	125	124	128	118

It should be noted that the modeled 2003 peak ozone concentrations are slightly different from those summarized in the April 17, 2000, proposed rulemaking (65 FR 20404) because Illinois and Missouri modified the Plume-In-Grid procedures used in the modeling system subsequent to the modeling summarized in the 1999 and 2000 submittals. This procedural change was applied to both the 1996 base year modeling and the 2003 attainment strategy modeling to maintain consistency.

Because the model predicts exceedances of the ozone standard, i.e., ozone concentrations above 124 parts per billion, for three of the episode days under the 2003 attainment strategy, the states have included a ''weight of evidence'' determination to support the adequacy of the attainment strategy. The purpose of this determination is to show that attainment of ozone standard is more likely than not, if the proposed control strategy is implemented. The states' initial weight of evidence determination was addressed in the April 17, 2000, proposed rule. Only two elements of the weight of evidence determination were affected by the revised ozone modeling analysis. These two elements are the ''relative reduction attainment test'' and the ''EPA shortfall calculation.''

The relative reduction attainment test uses a ratio of modeled attainment strategy ozone concentrations to modeled base year ozone concentrations for each monitoring site coupled with the base year ozone design value [2] for each monitoring site to derive future (attainment year) ozone design values for the monitoring sites. Predicted ozone design values at or below 124 parts per million for all monitoring sites adds a weight of evidence that the attainment strategy is adequate to result in attainment of the 1-hour ozone standard. Table 3 summarizes the revised relative reduction attainment test results obtained by Illinois and Missouri using the revised 1996 base year emissions and the revised ozone modeling system.

TABLE 3.—RELATIVE REDUCTION ATTAINMENT TEST RESULTS

[Ozone concentrations in parts per billion]

State	County	Ozone design values 1995–1997	Relative reduction factor	Derived attainment strategy ozone design values
Illinois	Madison	128	0.94	120
	St. Clair	108	0.94	101
Missouri	Jefferson	125	0.92	115
	St. Charles	131	0.93	122
	St. Louis	119	0.92	109

Note that the derived ozone design values for all portions of the nonattainment area are below the ozone standard (124 part per million).

EPA shortfall calculation is similar to the relative reduction factor approach, but involves calculating the ratio of the averages across all episode days to generate a reduction factor for the entire ozone nonattainment area coupled with the average monitored ozone design value over a four-year period (1995 through 1998 in the Illinois and Missouri analysis). Using the revised ozone modeling results and the average monitored ozone design value, Illinois and Missouri calculated a future ozone design value of 123.3 parts per billion, which is below the ozone NAAQS.

In addition to the statistical and modeling data presented here, the states' submittals include additional graphical and statistical data to support the validity of the ozone modeling results and the adequacy of the adopted ozone attainment strategy. Included in the submittal are: daily peak ozone concentration isopleth maps for the modeling domain, geographical maps showing the locations and magnitudes of daily peak ozone concentrations, daily wind back-trajectories to key ozone monitoring sites, daily predicted

explained how the NO_X SIP call controls were also utilized in the attainment demonstration. See 65 FR 20404, 20415–6.

[2] The ozone design value for a monitoring site is the fourth highest daily maximum 1-hour ozone concentration monitored over a three-year period.

peak ozone concentrations for the St. Louis nonattainment area subdomain, a number of other statistical performance parameter results for the full domain and the St. Louis nonattainment area subdomain for each day modeled, observed vs. predicted ozone scatterplots for each modeled day, time series of simulated versus observed ozone concentrations for the St. Louis nonattainment area monitoring sites, and predicted peak ozone concentration isopleths for the St. Louis nonattainment subdomain for 2003 after implementation of the final, selected emissions control strategy.

The states conclude, and EPA concurs, that the revised modeling system performs at an acceptable level as it satisfactorily reproduces peak ozone concentrations relative to the monitored peak ozone concentrations. This is particularly true for the St. Louis nonattainment area subdomain. Additionally, the modeling system adequately simulates the observed magnitude and spatial and temporal patterns of ozone. Furthermore, the modeling results accurately differentiate between days with marginal ozone levels and days with elevated ozone concentrations. As such, EPA believes the revised modeling and weight of evidence results confirm the adequacy of the adopted emission control strategy.

How Did the States Address the Change of the Attainment Date From November 15, 2003, to November 15, 2004?

As noted above, an August 30, 2000, decision by the United States Court of Appeals for the District of Columbia Circuit has delayed the compliance deadline for the NO_X SIP call from May 1, 2003, to May 31, 2004. This has necessitated that EPA and the states consider November 15, 2004, rather than November 15, 2003, as the relevant attainment date because Missouri and Illinois relied upon NO_X SIP call reductions in the attainment demonstration. Both Missouri and Illinois have submitted analyses demonstrating that emission control measures beyond those already considered in the attainment demonstration are not necessary in spite of the delayed NO_X SIP call compliance deadline. Both states have assessed the emissions impacts of the change to the attainment date.

In their respective February 28, 2001, and March 1, 2001, submittals, Missouri and Illinois compared estimated 2004 VOC and NO_X emissions for the St. Louis nonattainment area for all source sectors with their previously submitted 2003 estimates. The states also accounted for expected changes in the 2003 and 2004 EGU NO_X emissions inventories for the states of Illinois, Indiana, Kentucky, Ohio, and Tennessee. In addition, Missouri's 2004 EGU NO_X emissions were analyzed with respect to both the current statewide NO_X control regulations and anticipated impacts of potential revisions to the NO_X SIP call.[3]

Based on these analyses, we conclude that the VOC and NO_X emissions in 2004 will be lower than the 2003 VOC and NO_X emissions within the St. Louis ozone nonattainment area. We also conclude that NO_X emissions from utilities (EGUs) in Illinois, Indiana, Kentucky, Ohio, and Tennessee will be lower in 2004 than 2003. This implies that fewer ozone precursor emissions and less ozone will be transported into the St. Louis nonattainment area. While Missouri's statewide NO_X emissions may increase slightly (approximately 2.6 tons per day) between 2003 and 2004, NO_X emissions in upwind areas are expected to decrease by 801.92 tons per day. Both states have also accounted for a NO_X rule which will be implemented in Illinois as part of the attainment strategy. Illinois has submitted a draft of this EGU NO_X control rule and has requested a parallel review by EPA. This draft rule is the subject of a separate proposed rule, published elsewhere in today's **Federal Register**. Illinois has also adopted and submitted NO_X control rules to meet the requirements of EPA's NO_X SIP call. These rules are undergoing separate review.

Do the Analyses Support Attainment of the 1-Hour Ozone Standard by November 15, 2004?

In light of the local and regional emission changes expected to occur between 2003 and 2004 and the revised modeling and weight of evidence determinations, we believe that the St. Louis area will attain the 1-hour ozone standard by November 15, 2004.

[3] Missouri currently requires EGUs in the eastern third of the state to meet a NO_X emission rate limit of 0.25 pounds per mmBtu of heat input and EGUs in the western two-thirds of the state to meet a NO_X emission rate limit of 0.35 pounds per mmBtu of heat input. Because of EPA's stated intent to repromulgate a NO_X SIP call budget for Missouri, the state also analyzed an alternate scenario, which assumed that the NO_X emission control requirements for the EGUs in the eastern third of Missouri may have to be adjusted to a NO_X emission rate limit of 0.15 pounds per mmBtu of heat input, but that no NO_X emission controls may be required (for purposes of the NO_X SIP call) for the EGUs in the western two-thirds of the state. The 2003 and 2004 emissions in Missouri would be affected by this assumed shift in NO_X emissions controls, and have been considered by Missouri in this analysis.

How Do the Revised Attainment Demonstrations Address the Transportation Conformity Requirements for Motor Vehicle Emission Budgets?

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. This requirement applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. of the Federal Transit Act (''transportation conformity''), and to all other Federally supported or funded projects (''general conformity''). Section 176(c) of the CAA requires transportation conformity. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

Attainment demonstrations are required to contain adequate motor vehicle emissions budgets derived from the mobile source portion of the demonstrated attainment emission inventory. The motor vehicle emissions budgets establish caps on mobile source emissions. VOC and NO_X emissions associated with transportation improvement programs and long-range transportation plans cannot exceed these caps. The criteria for judging the adequacy of motor vehicle emission budgets are detailed in the transportation conformity regulations in 40 CFR 93.118. Both Illinois and Missouri have revised the motor vehicle emissions budgets based on the estimated motor vehicle emissions for the 2004 attainment date. The 2001 submittals evaluate the change in vehicle miles of travel (VMT) and the change in emission controls from the previous 2003 attainment date to the 2004 attainment date. Both Illinois and Missouri have submitted mobile source emission budgets for VOC and NO_X based on the emissions analyses included in their 2001 submittals.

The following outlines the techniques used by each state in deriving the resultant VOC and NO_X emissions budgets for their respective portions of the St. Louis ozone nonattainment area.

Illinois

VMT growth estimates were provided to the state by the East-West Gateway Coordinating Council (EWGCC) through an interagency consultation process involving the Missouri Department of Transportation (MDOT) and the Illinois Department of Transportation (IDOT). For the 2004 attainment year, an additional year of VMT growth was applied to the VMT estimates for 2003. The 2003 emissions were increased by 2 percent to account for VMT growth which is expected to occur between 2003 and 2004, in the Illinois portion of the nonattainment area. The 2004 emissions were then adjusted to reflect summer weekday conditions. Emission factors were generated for 2004 using EPA's MOBILE 5b emission factor model. These emission factors were then adjusted to reflect implementation of the Tier II/Low Sulfur gasoline program by using an EPA-supplied information sheet since this national program will be in place in 2004. The resulting motor vehicle emissions budgets for the 2004 attainment year (for the Illinois portion of the St. Louis nonattainment area) are 26.62 tons per day of VOC and 35.52 tons per day of NO_X. Illinois addressed these emission budgets during the February 27, 2001, public hearing on the revised attainment demonstration. There were no public comments at the hearing regarding the revised emission budgets, however, the public comment period is open until March 29, 2001.

Missouri

To estimate VMT For the 2004 attainment year, an additional year of growth was applied to VMT estimates for 2003. The VMT growth estimates were provided to the state by the EWGCC through an interagency consultation process involving the MDOT and the IDOT. Based on recommendations from the EWGCC, the VMT growth rate (for Missouri) between 2003 and 2004 was assumed to be 2.5 percent.

The mobile source control measures considered by Missouri in the development of the 2004 mobile source emissions budgets included: Centralized, enhanced vehicle inspection and maintenance (I/M) (St. Louis City and Jefferson, St. Charles, and St. Louis Counties); basic vehicle I/M (Franklin County only); Federal reformulated gasoline; National Low Emission Vehicle program; Tier II/Low Sulfur gasoline requirements; and planned transportation control measures.

The 2004 VMT estimates were applied to emission factors that were derived by following the same procedures as those employed by Illinois. The 2004 mobile source emission budgets for the Missouri portion of the St. Louis ozone nonattainment area are 43.74 tons per day for VOC and 91.90 tons per day for NO_X.

For Both States

In order for EPA to approve attainment demonstrations, states whose attainment demonstrations include the effects of the Tier II/Low Sulfur gasoline program need to commit to revise and resubmit their motor vehicle emission budgets based on MOBILE 6 after EPA releases the new emission factor model, because Tier II reductions cannot be properly accounted for using the current version of the model (MOBILE 5b). This policy was detailed in the supplemental notice of proposed rule issued on July 28, 2000 (65 FR 46383). Illinois committed to revising its 2004 motor vehicle emissions budgets within two years of the release of MOBILE 6. In addition, no conformity determinations will be made during the second year unless adequate, MOBILE 6 derived budgets are in place. Missouri committed to revising its 2004 motor vehicle emissions budgets within one or two years of the release of MOBILE 6. Missouri has committed that if it chooses the two-year option, no conformity determinations will be made during the second year unless adequate, MOBILE 6 derived budgets are in place. If either of the states fail to meet its commitment to submit revised emission budgets using MOBILE 6, EPA could make a finding of failure to implement the SIP, which would start a sanctions clock under section 179 of the CAA.

Illinois' revised motor vehicle emission budgets have been posted on the EPA Web site for the 30-day public comment period (http://www.epa.gov/otaq/traq). The comment period associated with the Web posting will close March 28, 2001. EPA is also seeking comments in association with this proposed rule and will accept such comments provided they are submitted within the 30 days following publication. We will address all comments in our final rulemaking on the attainment demonstration.

Missouri's 2004 emissions budgets have also been posted on EPA's conformity Web site. Unless an extension is requested, the comment period will close on April 12, 2001. EPA is also seeking comments in association with this proposed rule and will accept such comments provided they are submitted within the 30 days following publication. Consistent with the process being used for Illinois, we will address all comments in our final rulemaking on the attainment demonstration.

EPA has reviewed the states' 2004 motor vehicle emission budgets. Our review indicates that the revised budgets meet the adequacy criteria in section 93.118 of the Transportation Conformity Regulations. Thus, EPA is proposing to find them adequate and to approve them for conformity purposes.

What Is the Status of Emission Control Regulations for Which the Attainment Demonstration Accounts?

Both states rely, in part, on the implementation of statewide NO_X emission controls for EGUs to attain the 1-hour ozone standard by November 15, 2004. On June 29, 2000, the state of Missouri submitted an amendment to Missouri's SIP, rule 10 CSR 10–6.350, ''Emissions Limitations and Emissions Trading of Oxides of Nitrogen.'' This rule requires reductions in NO_X emissions by establishing NO_X emissions limitations for large EGUs with a nameplate capacity greater than 25 megawatts. The rule requires compliance by May 1, 2003. This rule limits the NO_X emission rates for EGUs in the eastern third of the state to 0.25 pounds per mmBtu of heat input and the NO_X emission rates for EGUs in the western two-thirds of the state to 0.35 pounds per mmBtu of heat input. The control period for this rule begins on May 1 and ends on September 30 of each year beginning in 2003. EPA proposed to approve this rule on August 24, 2000 (65 FR 51564), and approved this rule in final rulemaking on December 28, 2000 (65 FR 82285).

On October 20, 2000, the state of Illinois submitted a proposed amendment to Illinois' emission control regulations, 35 Illinois Administrative Code 217, Subpart V (35 IAC 217 Subpart V), ''Electric Power Generation.'' This rule will establish a statewide NO_X emission rate limit of 0.25 pounds per mmBtu of heat input for EGUs, effective in 2003, as required by the state's ozone attainment demonstration for the St. Louis nonattainment area. The state has requested parallel processing of this rule by EPA. This rule is currently undergoing separate review by EPA for purposes of parallel proposed rulemaking which has also been published in today's **Federal Register**.

In addition to the 35 IAC 217 Subpart V rule, IEPA has also submitted additional statewide NO_X control rules to comply with EPA's NO_X SIP call. These rules will result in additional

NO_X emission reductions in the state of Illinois beginning in 2004 which were not considered in the St. Louis attainment demonstration modeling, but were accounted for in the states' 2003 to 2004 emissions analyses. On December 21, 2000, the state of Illinois adopted 35 IAC 217 Subpart W, '' NO_X Trading Program for Electrical Generating Units'' and amendments to 35 IAC 211. These rule amendments establish a statewide NO_X emission rate limit for EGUs of 0.15 pounds per mmBtu of heat input and establish a statewide emissions trading program. On October 16, 2000, IEPA filed with the Illinois Pollution Control Board proposed rule 35 IAC 217 Subpart U, '' NO_X Control and Trading Program for Specified NO_X Generating Units,'' and rule 35 IAC 217 Subpart X, ''Voluntary NO_X Emissions Reduction Program.'' These rules establish NO_X emission controls for major non-EGU boilers and allows smaller boilers to participate in the trading of NO_X emission reduction credits. On August 21, 2000, IEPA filed with the Illinois Pollution Control Board proposed rule 35 IAC 217 Subpart T, ''Cement Kilns.'' This rule will limit the NO_X emissions from major cement kilns. All of these adopted and/or proposed rules are under review by EPA and will be considered in future rulemakings.

What Is the Status of the States' Efforts to Qualify for an Attainment Date Extension?

In the March 18, 1999, proposal and the April 17, 2000, proposal, EPA described in detail the Guidance ''Extension of Attainment Dates for Downwind Transport Areas,'' (64 FR 14441) March 25, 1999. In the April 17, 2000, proposal, EPA discussed the submissions made by Missouri and Illinois to meet the criteria in the Guidance, and proposed to approve an attainment date extension for the area to November 15, 2003. The proposal to extend the attainment date, and retain the current moderate classification for the St. Louis area, is consistent with other actions which EPA is taking for similarly situated areas, as discussed below.

The following discussion summarizes the criteria for obtaining an attainment date extension and the prior EPA proposals for the St. Louis area relating to the states' request for an attainment date extension. It also updates the states' progress in meeting the criteria for an attainment date extension, and discusses the new attainment date which EPA is proposing in today's action.

EPA Guidance concerning attainment date extensions states that EPA will consider extending the attainment date for an area or a state that:

1. Has been identified as a downwind area affected by transport from either an upwind area in the same state with a later attainment date or an upwind area in another state that significantly contributes to downwind ozone nonattainment;

2. Has submitted an approvable attainment demonstration with any necessary, adopted local measures and with an attainment date that shows it will attain the 1-hour standard no later than the date that the emission reductions are expected from upwind areas under the final NO_X SIP call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind emission reductions;

3. Has adopted all applicable local measures required under the area's current ozone classification and any additional emission control measures demonstrated to be necessary to achieve attainment, assuming the emission reductions occur as required in the upwind areas; and

4. Has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

With respect to the showing that the St. Louis area is a downwind area affected by transport, the April 17, 2000, proposal noted that the Ozone Transport Assessment Group modeling and the attainment demonstration for the St. Louis area submitted by Missouri and Illinois showed the impacts of transport, specifically noting that sources in Kentucky make significant contributions to the St. Louis nonattainment area. See 65 FR 20404, 20418. On this basis, EPA proposed to find that this criterion of the Guidance had been met.

With respect to the submittal of an approvable attainment demonstration, EPA noted that the submitted attainment demonstration, with the revisions specified in the April 17, 2000, proposal, and addressed elsewhere in today's proposal, would be adequate to show attainment. As stated elsewhere in this proposal, Missouri has now submitted a revised attainment demonstration containing the corrections and additions requested by EPA, and Illinois has submitted proposed revisions with final adoption expected in the near future. The April 17, 2000, proposal also noted that all of the control measures needed for attainment, with the exception of the regional NO_X emission controls, had been adopted. *Id.* at p. 20418. Missouri has now adopted, and EPA has approved, regional NO_X controls needed for the attainment demonstration. As discussed elsewhere in this proposal, Illinois has submitted proposed regional NO_X controls, which EPA is proposing to approve separately in today's **Federal Register**. EPA expects Illinois to adopt and submit final regional NO_X rules in the near future.

With respect to the adoption of all local measures required under the area's ''moderate'' nonattainment classification, the April 17, 2000, proposal stated that both states had previously adopted all local moderate area requirements, with the exception of NO_X RACT for Illinois sources. On May 18, 2000, EPA took final action to approve the following local moderate area measures for Missouri: the NO_X RACT rule (65 FR 31482); the motor vehicle I/M program (65 FR 31480); VOC RACT rules (65 FR 31489); and the 15% Rate-Of-Progress Plan (65 FR 31485).[4] On December 28, 2000, EPA also approved a statewide NO_X rule for Missouri (65 FR 82285).[5]

In the April 17, 2000, proposal, EPA explained that it was also proposing to approve an exemption from the NO_X RACT requirements for the Illinois portion of the nonattainment area under section 182(f)(2). EPA also explained that if it took final action to approve the exemption and the regional NO_X controls for both states, the states will have met the requirement to have adopted all local measures necessary for the area's current classification. *Id.*

With respect to implementation of all adopted measures by the time upwind controls are expected, EPA noted that the measures adopted by Illinois and Missouri were expected to be implemented by the start of the ozone season in 2003, which, at the time of the April 17, 2000, proposal, was the compliance date for the NO_X SIP call. EPA also proposed 2003 as the new attainment year for the area, consistent with the attainment date extension policy. *Id.* EPA continues to believe that the measures adopted by Illinois and

[4] A petition for review of EPA's approval of the 15% Plan is currently pending in the Court of Appeals for the Eighth Circuit, *Sierra Club* v. *EPA,* No. 00–2744.

[5] The March 18, 1999, proposal and the April 17, 2000, proposal listed the moderate area requirements which had been submitted by the states and approved by EPA. These proposals did not, however, specifically address how the area meets the following moderate area requirements: the requirement to provide for implementation of all reasonably available control measures as expeditiously as practicable under section 172(c)(1) of the Act; and the requirement for contingency measures under section 172(c)(9). EPA intends to issue a supplemental proposal in the near future addressing these requirements.

Missouri will be implemented by 2003, and notes that the regional NO_X controls for both states have a 2003 compliance date. However, as explained elsewhere in this proposal, since the attainment demonstration relies on reductions from the NO_X SIP call to reduce transported ozone precursors, and the compliance date for the NO_X SIP call has been extended to May 31, 2004, EPA believes that the attainment date must be extended to November 15, 2004, to allow the reductions in transport to occur before attainment is required. Therefore, consistent with the attainment date extension policy, EPA proposes to extend the attainment date to November 15, 2004.

What Action Is EPA Proposing Regarding the Determination of Nonattainment as of November 15, 1996, and Reclassification published on March 19, 2001?

As noted above, EPA informed the Court on March 8 of its intended actions regarding St. Louis. These actions included this proposal and the proposal to postpone the effective date of the Determination of Nonattainment that was also published on March 19, 2001. EPA also informed the Court of its intent to withdraw the nonattainment determination and reclassification if EPA approves an attainment date extension for the St. Louis area prior to the determination becoming effective. The Court, in a limited review to determine whether EPA's planned course of action would contravene the Court's Order, indicated that EPA, by signing a determination by March 12 and publishing the required Notice by March 20, would comply with the Court's Order. The Court noted that it lacked jurisdiction to assess the propriety of the remainder of EPA's planned course of action.

EPA is now proposing to withdraw the Notice of Nonattainment and Reclassification if EPA approves an attainment date extension prior to the effective date of the Notice of Nonattainment. EPA believes this is appropriate for the following reasons. Section 181(b)(2)(A) of the Act requires that EPA determine attainment within six months of the attainment date. If the attainment date were extended, there would be a new deadline for the determination that would arise only in the future. *See* Guidance. Thus, if the attainment date were extended, EPA's obligation to determine attainment would not yet have occurred and EPA could withdraw the published nonattainment determination and the consequent reclassification, which would not yet have gone into effect. Such a course would harmonize the need to allow the Agency to fulfill its duty to take into account upwind transport, while adhering to a fixed and very near-term schedule. It would also allow EPA to apply to the St. Louis area the attainment date extension policy which EPA has applied in other areas affected by transport. Recently EPA issued three final rulemakings granting requests for attainment date extensions based on its policy in three ozone nonattainment areas: Washington, D.C., Greater Connecticut, and Springfield, Massachusetts. 66 FR 586 (January 3, 2001); 66 FR 634 (January 3, 2001); 66 FR 666 (January 3, 2001). In addition, EPA has proposed granting attainment date extensions to Louisville, Kentucky, and Beaumont, Texas. 64 FR 27734 (May 21, 1999); 64 FR 12854 (April 16, 1999); 65 FR 81786 (December 27, 2000).

Have the States Corrected the Deficiencies Identified in the April 17, 2000, Proposed Rulemaking?

Based on the review of the submittals discussed above, EPA believes that Missouri has corrected the deficiencies identified in our April 17, 2000, proposed rulemaking. The state has submitted: (1) Documentation of revised base year (1996) and attainment year photochemical modeling results incorporating revisions to the 1996 base year emissions for the St. Louis nonattainment area, which demonstrate that St. Louis would have attained the 1-hour ozone standard by November 15, 2003, had the compliance date for the NO_X SIP call remained May 1, 2003; (2) adopted emission control regulations needed to support the ozone attainment demonstration, and EPA has approved these regulations; and (3) motor vehicle transportation conformity emission budgets based on the revised ozone attainment demonstration.

EPA believes Illinois will correct the deficiencies identified in our April 17, 2000, proposed rulemaking when it finalizes and submits the necessary revisions. Illinois has submitted: (1) Draft documentation of revised base year photochemical modeling results incorporating revisions to the 1996 base year emissions for the St. Louis nonattainment area and demonstrating attainment of the 1-hour ozone standard by 2003; and (2) draft motor vehicle transportation conformity emission budgets based on the revised ozone attainment demonstration. The state has submitted a proposed NO_X emission control rule needed to support the attainment demonstration (the 0.25 pounds NO_X per mmBtu of heat input rule for EGUs). Final adoption of these items is expected to occur in April 2001.

In short, EPA believes Missouri has made the submittals called for in our April 17, 2000, proposed rulemaking, and that Illinois will make the necessary submittals in April of this year.

What Is EPA's Assessment of the Ozone Attainment Demonstration for the St. Louis Ozone Nonattainment Area?

EPA believes the ozone attainment demonstration for the Missouri portion of the St. Louis ozone nonattainment area is fully approvable. We also believe the ozone attainment demonstration for the Illinois portion (the Metro-East area) of the St. Louis ozone nonattainment area is approvable contingent upon the state adoption and EPA approval of the 0.25 pounds NO_X per mmBtu of heat input rule for EGUs, and adoption and submission of the final revisions to the attainment demonstration discussed in this notice.

What is EPA's Assessment of the Transportation Conformity Emission Budgets for the Illinois and Missouri Portions of the St. Louis Ozone Nonattainment Area?

As noted above, EPA believes the transportation conformity emission budgets for both portions of the St. Louis ozone nonattainment area are adequate and approvable with respect to EPA's conformity regulation.

When Will EPA Address Public Comments Received Regarding the April 17, 2000, Proposed Rulemaking?

EPA will address public comments received with respect to both our April 17, 2000, proposed rulemaking and today's supplemental proposed rulemaking in our final rulemaking on the Missouri and Illinois ozone attainment demonstration. With respect to the attainment demonstration and conformity budgets, EPA specifically seeks comments on the supplemental information described in this proposal.

What Actions Are We Proposing Today?

EPA is proposing to approve the St. Louis nonattainment area ozone attainment demonstration for both Missouri and Illinois. Final approval of the attainment demonstration for Illinois is contingent on the state's submittal of an adopted rule requiring EGUs to achieve a NO_X emission rate of 0.25 pounds per mmBtu of heat input or less.

EPA is proposing its finding that the transportation conformity motor vehicle emission budgets submitted by Illinois and Missouri are adequate for

conformity purposes and is therefore proposing to approve them.

In addition, EPA is proposing to withdraw its March 19, 2001, rulemaking determining nonattainment and reclassifying the St. Louis nonattainment area as a serious nonattainment area for ozone (66 FR 15578), if EPA extends the attainment date for St. Louis pursuant to EPA's policy regarding the extension of attainment dates for downwind transport areas prior to the effective date of the March 12 nonattainment determination. EPA proposes instead to extend the attainment date for this area to November 15, 2004, and to retain the classification of the area as a moderate nonattainment area for ozone.

Administrative Requirements

A. Executive Order 12866

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

B. 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 proposed rule is not subject to Executive Order 13045 because it does not meet the criteria stated above.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to 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 matters that significantly or uniquely affect their communities.''

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

D. Executive Order 13132

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

This proposed rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it would merely approve a state program implementing a Federal standard, and would not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval and other actions proposed do not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated 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 has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing plans under state or local law, and take other actions which impose no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Volatile organic compounds, Nitrogen oxides, ozone.

40 CFR Part 81

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

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

Dated: March 23, 2001.

Wanda L. Johnson,

Acting Regional Administrator, Region 7.

[FR Doc. 01–8019 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 36

Meetings of the Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance

AGENCY: Indian Health Services, HHS.

ACTION: Notice of meetings.

SUMMARY: The Secretary of Health and Human Services has established a Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance (Committee) to negotiate and develop a proposed rule implementing the Tribal Self-Governance Amendments of 2000 (the Act). We intend to publish the proposed rule for notice and comment no later than one year after the date of enactment of the Act (August 18, 2000+ one year), as required by section 517(a)(2) of the Act.

DATES: Upcoming meetings of the Committee are as follows:

1. April 17–19, 8:30 a.m.–5 p.m., Washington, DC.
2. May 22–24, 8:30 a.m.–5 p.m., Oklahoma City, OK.

ADDRESSES: The meeting locations are:

1. Washington, DC—Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001, Phone: (202) 737–1234.
2. Oklahoma City, OK—Waterford Marriott, 6300 Waterford Boulevard, Oklahoma City, OK 73118, Phone: 1–800–228–9290.

Written statements may be submitted to Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A–55, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A–55, Rockville, MD 20857, Telephone 301–443–7821. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Both meetings are open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meetings to the extent time permits and file written statements with the Committee for its consideration. Submit your written statements to the address listed above. Summaries of the Committee meetings will be available for public inspection and copying ten days following each meeting at the same address.

Dated: March 29, 2001.

Michael H. Trujillo,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 01–8233 Filed 3–30–01; 11:31 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 447

[HCFA–2100–P]

RIN 0938–AK89

Medicaid Program; Modification of the Medicaid Upper Payment Limit Transition Period for Inpatient Hospital Services, Outpatient Hospital Services, Nursing Facility Services, Intermediate Care Facility Services for the Mentally Retarded, and Clinic Services

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify the Medicaid upper payment (UPL) limit provisions to establish a new transition period for States that submitted plan amendments before March 13, 2001 that do not comply with the new UPLs effective on that date (but do comply with the prior UPLs) and were approved on or after January 22, 2001. This new transition period would apply to payments for inpatient hospital services, outpatient hospital services, nursing facility services, intermediate care facility services for the mentally retarded, and clinic services.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on May 3, 2001.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2100–P, P.O. Box 8016, Baltimore, MD 21244–8016

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244.

Comments mailed to the above addresses may be delayed and received too late for us to consider them.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2100–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room C5–10–04 of the headquarters of the Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD on Monday through Friday of each week from 8:30 a.m to 5 p.m. To schedule a time to view the public comments, please call (410) 786–7195.

FOR FURTHER INFORMATION CONTACT:

Robert Weaver, (410) 786–5914—Nursing facility services and intermediate care facility services for the mentally retarded.

Larry Reed, (410) 786–3325—Inpatient and outpatient hospital services and clinic services.

SUPPLEMENTARY INFORMATION:

I. Background

In the final rule published on January 12, 2001 in the **Federal Register** (66 FR 3148), we specified transition periods for those States with State plan amendments (SPAs) approved before

the final rule effective date of March 13, 2001. In our March 13, 2001 letter to State Medicaid Directors, we clarified that state plan amendments submitted on or after the effective date of the final rule would be subject to the new requirements of the final rule. We further explained that any state plan amendment that is submitted on or after that date, including modifications to existing state plans, that does not conform with the new upper payment limitations would be disapproved.

The State Medicaid Directors letter did not address the amendments pending HCFA approval. After reviewing the legal and policy issues involved, the Administration now believes that each State's pending amendment should be reviewed under the criteria in place before March 13, 2001, rather than applying the provisions of the January 12, 2001 final rule. However, the Administration is also committed to phasing out the UPL loophole and assuring that tax dollars are spent properly. Absent modification of the UPL transition provisions, approval of these State plan amendments could trigger a 2-year transition period through September 30, 2002, which would have greater budget implications than anticipated. Therefore, we are proposing to limit the transition period to one year.

II. Provisions of the Proposed Rule

As this administration takes additional steps to address the Medicaid UPL loophole, we are proposing to create a separate UPL transition period for those State plan amendments that were submitted to us before March 13, 2001 but were approved on or after January 22, 2001. These State plan amendments would qualify for a transition period that would end on the later of March 13, 2001 or 1 year after the approved effective date of each State plan amendment. With respect to pending UPL plans that are expansions of previously approved plans, the separate transition period described in this rule would only apply to the portion of spending under the pending plan that is above the amount that was previously approved.

This proposed rule does not include those State plan amendments that were actively (not deemed) approved after January 12, 2001 based on their compliance with the final rule of January 12, 2001. Because these amendments comply with the final rule, the amendments are not subject to the transition periods specified in the January 12, 2001 final rule. Also, as noted in the State Medicaid Directors letter of March 13, 2001, any State plan amendments submitted on or after March 13, 2001 would be reviewed and acted upon under the January 12, 2001 final rule. We would also treat any material change submitted on or after March 13, 2001 to a State plan amendment pending on that date as a new State plan amendment. We would not be able to approve such a submission under the UPL requirements in effect, and it would not be eligible for the new transition period.

III. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

IV. Collection of Information Requirements—Paperwork Reduction Act

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

V. Regulatory Impact Analysis

A. Introduction

We have examined the impact of this proposed rule as required by Executive Order (EO) 12866, the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year). We consider this to be a major rule and we have provided an analysis below.

B. Overall Impact

The estimates provided below are based on State-reported Federal fiscal year information submitted with State plan amendments and State expenditure information, where available.

We have identified 11 States with pending rate proposals that would potentially qualify for the transition period in the final rule. Were these state plan amendments now to be approved, we estimate the increase in spending attributed to these amendments would total $1.1 billion over fiscal years 2001 and 2002 as a result of the two-year transition period ending on September 30, 2002. Restricting the transition period to one year only, as proposed in this rule, would reduce the potential costs for expenditures by $0.6 billion over the same period.

C. Impact on Small Entities and Rural Hospitals

The Regulatory Flexibility Act requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million to $25 million (see 65 FR 69432) or less annually. For purposes of the RFA, all hospitals, nursing facilities, intermediate care facilities for the mentally retarded, and clinics are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

We do not believe the 1-year transition policy proposed in this would have a significant impact on small entities, including small rural hospitals. Although the proposed transition policy would allow States to make higher payments to government providers than what otherwise would have been allowable under the rules that were effective on March 13, 2001, this flexibility would only be available for a year. Therefore, we would not expect small entities to develop any reliance on these payments.

We invite public comments on the possible effects this proposed rule would have on small entities in general and on small rural hospitals in particular.

D. The Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies perform an assessment of anticipated costs and benefits before proposing any rule that may result in a mandated expenditure in any one year by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million. Because this proposed rule does not mandate any new spending requirements or costs, but rather provides for a 1 year transition policy, we do not believe it has any unfunded mandate implications.

E. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We do not believe this proposed rule in any way imposes substantial direct compliance costs on State and local governments or preempts or supersedes State or local law.

F. Executive Order 12866

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects Affected in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs-health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Health Care Financing Administration proposes to amend 42 CFR part 447 as follows:

PART 447—PAYMENTS FOR SERVICES

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 447.272, revise paragraph (e)(2)(ii)(A) and add a new paragraph (e)(2)(ii)(D) to read as follows:

§ 447.272 Inpatient services: application of upper payment limits.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(A) For State plan provisions that are effective on or after October 1, 1999 and were approved before January 22, 2001, payments may exceed the upper payment limit in paragraph (b) of this section until September 30, 2002.

* * * * *

(D) For State plan provisions that were effective on or after October 1, 1999 and were submitted to HCFA before March 13, 2001 (and were approved on or after January 22, 2001), payments may exceed the limit in paragraph (b) of this section until the later of March 13, 2001, or 1 year from the approved effective date of each State plan provision.

* * * * *

3. In § 447.321, revise paragraph (e)(2)(ii)(A) and add a new paragraph (e)(2)(ii)(D) to read as follows:

§ 447.321 Outpatient hospital and clinic services: Application of upper payment limits.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(A) For State plan provisions that are effective on or after October 1, 1999 and were approved before January 22, 2001, payments may exceed the upper payment limit in paragraph (b) of this section until September 30, 2002.

* * * * *

(D) For State plan provisions that were effective on or after October 1, 1999 and were submitted to HCFA before March 13, 2001 (and were approved on or after January 22, 2001), payments may exceed the limit in paragraph (b) of this section until the later of March 13, 2001, or 1 year from the approved effective date of each State plan provision.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: March 27, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 01–8178 Filed 3–29–01; 3:47 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 010312061–1061–01; I.D. 061199B]

RIN 0648–XA63

Endangered and Threatened Species: Puget Sound Populations of Copper Rockfish, Quillback Rockfish, Brown Rockfish, and Pacific Herring

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

ACTION: Notice of determination of status review.

SUMMARY: NMFS has completed an Endangered Species Act (ESA) status review for copper rockfish (*Sebastes caurinus*), quillback rockfish (*S. maliger*), brown rockfish (*S. auriculatus*), and Pacific herring (*Clupea pallasi*) populations in the eastern North Pacific Ocean. After reviewing the available scientific and commercial information, NMFS has determined that the petitioned populations of the three rockfish species in Puget Sound, WA do not warrant listing as threatened or endangered at this time. NMFS also concludes that the petitioned Pacific herring populations are part of a larger distinct population segment (DPS) that qualifies as a species under the ESA but does not warrant listing as threatened or endangered at this time.

ADDRESSES: Protected Resource Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232. Reference materials regarding this determination can be obtained via the Internet at *www.nwr.noaa.gov/1salmon/salmesa/pubs.htm* .

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region (503) 231–2005, or Marta Nammack, NMFS, Office of Protected Resources (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Petition Background

On February 8, 1999, the Secretary of Commerce received a petition from Sam Wright of Olympia, WA, to list as threatened or endangered under the ESA and to designate critical habitat for 18 species of marine fishes in Puget Sound, WA. On June 21, 1999 (64 FR 33037), NMFS accepted the petition for seven of these species, including Pacific herring and three members of the genus

Sebastes: copper rockfish, quillback rockfish, and brown rockfish. Although there was not enough information to warrant reviews for 11 of the petitioned rockfish species, NMFS believes that the assessments for copper, quillback, and brown rockfish reflect current trends and risks for Puget Sound rockfish in general. Findings for three of the seven species (Pacific hake, Pacific cod, and walleye pollock) have already been completed and were announced on November 22, 2000 (65 FR 58612).

The petitioner requested listings for ''species/populations or evolutionary [sic] significant units'' in Puget Sound, WA. Under the ESA, a listing determination can address a species, subspecies, or DPS of a vertebrate species (16 U.S.C. 1532 (15)). The term ''evolutionarily significant unit'' is currently defined only for Pacific salmonid DPSs (56 FR 58612, November 20, 1991). Therefore, to define the four species being discussed here, NMFS relied on the DPS framework described in the joint NMFS/USFWS policy (61 FR 4722, February 7, 1996). See ''Consideration as a 'Species' Under the ESA'' section of this document.

To ensure a comprehensive review, NMFS requested comments from any party having relevant information concerning: (1) biological or other relevant data that may help identify rockfish and Pacific herring DPSs; (2) the range, distribution, and size of these species' populations in Puget Sound and coastal waters of Washington and British Columbia; (3) current or planned activities and their possible effects on these species; and (4) efforts being made to protect these species in Washington and British Columbia. NMFS also asked for quantitative evaluations of the quality and extent of the species' estuarine and marine habitats and information on areas that may qualify as critical habitat in Washington. Although the status review focused on the petitioned populations in Puget Sound, NMFS also considered populations from the U.S. West Coast, British Columbia, and Alaska, because of their geographic proximity and potential relationship to populations in Puget Sound.

A NMFS Biological Review Team (BRT) made up of staff from NMFS' Northwest Fisheries Science Center, Southwest Fisheries Science Center, Alaska Fisheries Science Center, and the U.S. Fish and Wildlife Service (USFWS) has reviewed the best available scientific and commercial information pertaining to copper rockfish, quillback rockfish, brown rockfish, and Pacific herring from California to Alaska (NMFS, 2001a and 2001b). This document summarizes the principal results of this status review. Copies of the entire BRT report and other documents relevant to this review are available upon request (see **ADDRESSES**).

Biological Background

This section describes the general physical setting and biological attributes of copper rockfish, quillback rockfish, brown rockfish, and Pacific herring. More detailed information can be obtained from the NMFS status reviews (NMFS, 2001a and 2001b) and species accounts contained in Miller and Lea (1972), Hart (1973), Eschmeyer *et al.* (1983), and Kessler (1985).

The petition focused on populations in Puget Sound, a fjord-like estuary located in northwest Washington State that covers an area of about 9,000 km^2 and has about 3,700 km of coastline. It is subdivided into five basins or regions: (1) North Puget Sound, (2) Main Basin, (3) Whidbey Basin, (4) South Puget Sound, and (5) Hood Canal. The Georgia Basin is an international water body that encompasses the marine waters of Puget Sound, the Strait of Georgia, and the Strait of Juan de Fuca. The coastal drainage of the Georgia Basin is bounded to the west and south by the Olympic and Vancouver Island Mountains, and to the north and east by the Cascade and Coast Ranges.

The petition addressed only those populations of rockfish and Pacific herring found in Puget Sound. The petitioner stated that there may be genetic differences between rockfish in the northern and southern regions of Puget Sound as a result of physical and reproductive isolation. In addition, the petition cited information on genetic population subdivision for some species. The petitioner also noted life-history differences between some rockfish populations and pointed out discrete spawning areas for some species in Puget Sound. The petitioner used similar criteria to support individual population structures for Pacific herring in Puget Sound. The petitioner stated that differences in spawning time, spawning areas, and growth rates indicate that 18 herring population groups exist in Puget Sound. The petition placed considerable weight on four populations reported as ''depressed'' or at a critically low level of abundance (West, 1997; Bargmann, 1998). One of these populations is located in Cherry Point, one in Discovery Bay, one in Port Susan, and one in Port Orchard and Port Madison. The 14 remaining Puget Sound populations are classified as ''unknown,'' ''moderately healthy,'' or ''healthy'' (Bargmann, 1998).

Copper Rockfish

Copper rockfish are found from the Gulf of Alaska southward to central Baja California (Eschmeyer *et al.*, 1983; Stein and Hassler, 1989; Matthews, 1990a; Love, 1996) and are common in Puget Sound (Buckley and Hueckel, 1985; Quinnel and Schmitt, 1991). Adult copper rockfish are found in nearshore waters from the surface to 183 m deep (Eschmeyer *et al.*, 1983; Stein and Hassler, 1989).

Larval and small juvenile copper rockfish are pelagic for several months and are frequently found in surface waters and shallow habitats (Stein and Hassler, 1989; Love et al., 1991). They use bays as nursery areas (Stein and Hassler, 1989) and recruit to nearshore substrates in surface waters. Juveniles migrate from surface to benthic habitats (Matthews, 1990b). In the Georgia Basin, small young-of-the-year copper rockfish are associated with cobble substrate and rock piles. They are also found under pieces of bark or kelp fronds lying on the bottom (Patten, 1973; Love, 1996; Love *et al.*, 1991). Benthic aquatic plants and crevices are also important habitats (Buckley, 1997).

Adult copper rockfish are associated with sand/gravel bottoms and rocky areas in shallow water (Eschmeyer *et al.*, 1983; Haldorson and Richards, 1986; Stein and Hassler, 1989). They inhabit natural rocky reefs, artificial reefs, and rock piles that are closely associated with submerged vegetation (Matthews, 1990c). Once adults find a suitable reef, they have a strong tendency to remain there (Stein and Hassler, 1989; Matthews, 1990c; Love, 1996).

In Puget Sound, copper rockfish males and females become sexually mature at 3 to 4 years of age (Stein and Hassler, 1989). They spawn once a year and, like all *Sebastes* species, are ovoviviparous, i.e., eggs are fertilized internally and develop within the mother and hatch there or immediately after they are released. Mating/fertilization typically occurs from March to May (DeLacy *et al.*, 1964). Egg production ranges from 15,000 eggs in a 24–cm female to 640,000 in a 47–cm female (DeLacy *et al.*, 1964). Embryos are mature by April, and larvae are released from April to June (DeLacy *et al.*, 1964; Matthews, 1990b). Adults move inshore to release their young (Matthews, 1990a).

Larvae are 5 to 6 mm at birth and remain pelagic until they are 40 to 50 mm long (Stein and Hassler, 1989). Juvenile growth rates range from 0.15 to 0.20 mm/day (Love *et al.*, 1991). Growth rates are highest during the summer coinciding with high feeding rates and

off-shore nutrient upwelling (Stein and Hassler, 1989). Copper rockfish live up to 55 years (Matthews, 1990b) and can grow to 57 cm (Eschmeyer *et al.*, 1983; Stein and Hassler, 1989).

Quillback Rockfish

Quillback rockfish are found from the northern Channel Islands in southern California (R. Lea, California Department of Fish and Game, pers. comm. cited in NMFS, 2001a), to the Gulf of Alaska (Miller and Lea, 1972). They are common in the Strait of Georgia, San Juan Islands, and Puget Sound (Clemons and Wilby, 1961; Hart, 1973; Matthews, 1990a; Love, 1996).

Quillback rockfish are found in subtidal waters to depths of 275 m (Hart, 1973; Love, 1996), but typically inhabit depths from 41 m to 60 m (Murie *et al.*, 1993; Love, 1996). Larval and juvenile stages occupy mid-water habitats before they settle–usually in sandy/muddy habitats at moderate depths (Buckley, 1997). These juveniles (18-25 mm) gradually settle in shallow waters along the shores and are associated with submerged vegetation, bull kelp beds, natural rock configurations, and natural and artificial reefs (West *et al.*, 1994). Young-of-the-year quillback rockfish are found on sandy bottoms associated with eelgrass and natural and artificial reefs (Matthews, 1990b).

Adults are solitary reef-dwellers living near or on the bottom (Miller and Lea, 1972; Matthews, 1988; Rosenthal *et al.*, 1988; Love, 1996). They live among rocks, artificial and natural reefs, or on coarse sand or pebble substrates near reefs, particularly in areas with a high abundance of flat-bladed kelp (Love, 1996). Adult quillback rockfish have been known to return to their homesites after being displaced up to 6.4 km, indicating site fidelity (Patten, 1973).

In Puget Sound, most female quillback rockfish become sexually mature at 4 to 5 years of age, although a few become sexually mature at two or three (Gowan, 1983). Mating takes place in March and the larvae are released in May (Matthews, 1990b). They spawn from April to July, though the peak spawning period is early in the season (Love, 1996; Matthews, 1988).

Quillback rockfish can grow to 61 cm (Clemons and Wilby, 1961; Hart, 1973; Love, 1996) and can live to be more than 50 years old (Gowan, 1983; Love, 1996). Growth rates vary within the species' range; off southeastern Alaska a 12-year-old is approximately 31 cm in length whereas a 12-year-old would be 18 cm off the coast of California (Love, 1996).

Brown Rockfish

Brown rockfish range from central Baja California, to southeastern Alaska (Miller and Lea, 1972; Hart, 1973; Eschmeyer et al., 1983; Stein and Hassler, 1989; Matthews, 1990b; Love, 1996). Brown rockfish are common in shallow water (Matthews, 1990a; Matthews, 1990b) and are found from the surface to a depth of 128 m (Eschmeyer *et al.*, 1983). However, they are most common in waters below a depth of 6 m and are widely distributed in shallow-water bays (Love, 1996). Brown rockfish use estuaries as nursery grounds (Stein and Hassler, 1989) and are common in Puget Sound (Hart, 1973).

Brown rockfish settle when they are 18 to 25 mm in length–choosing shallow, vegetated habitats such as kelp beds or eelgrass (West *et al.*, 1994). Juveniles gradually move into deeper water as they mature (Love, 1996). Brown rockfish are bottom dwellers–living on hard bottoms such as siltstone or sand (Lea, 1992). Adults aggregate near rocks, oil platforms, sewer pipes, and even old tires (Matthews, 1990b; Love, 1996). They display strong reef fidelity on natural and artificial reefs in Puget Sound. They rarely move more than 3 kilometers (Matthews, 1990a) and they have a strong homing tendency (Love, 1996).

In Puget Sound, male and female brown rockfish mature at 4 to 7 years of age (Matthews, 1987). They mate in March and April (Stein and Hassler, 1989) and give birth in June (Hart, 1973). They spawn once per year (Stein and Hassler, 1989), unlike females off the California coast that spawn more often (Love, 1996). A 31–cm female brown rockfish produces approximately 52,000 young and a 48–cm female produces approximately 339,000 young (Hart, 1973).

Brown rockfish are 5 to 6 mm in length at birth (Stein and Hassler, 1989) and grow to a length of 55 cm (Hart, 1973; Love, 1996). Males and females grow at the same rate and mature at similar ages and lengths (Love, 1996).

Pacific Herring

Pacific herring in the Eastern Pacific Ocean range from northern Baja California north to Cape Bathurst in the Beaufort Sea (Hart, 1973; Lassuy, 1989). They are also found in Arctic waters from Coronation Gulf, Canada, to the Chuckchi Sea and the Russian Arctic. In the Western Pacific they are found from Toyama Bay, Japan, west to Korea and the Yellow Sea (Haegele and Schweigert, 1985; Wang, 1986).

Pacific herring larvae drift in the ocean currents after hatching and are abundant in shallow nearshore waters (Eldridge and Kaill, 1973; Suer, 1987). Juveniles usually stay in nearshore shallow-water areas until fall. After their first summer, they disperse to deeper offshore waters or reside year-round in some estuaries (Wang, 1986). For instance, some populations of Puget Sound Pacific herring spend their entire lives in Puget Sound while other populations summer in the coastal areas of Washington and southern British Columbia (Trumble, 1983). Adult Pacific herring school at depths between 100 and 150 m (Eldridge and Kaill, 1973; Suer, 1987) and move toward the surface to feed at dawn and dusk. They exhibit inshore–offshore movements associated with spawning and feeding (Morrow, 1980).

Adults move inshore during winter and early spring and reside in holding areas before moving to adjacent spawning grounds (Emmett et al., 1991). Spawning grounds are typically in sheltered inlets, sounds, bays, and estuaries (Haegele and Schweigert, 1985). In the state of Washington there are 19 well-defined spawning locations; 18 in Puget Sound and one on the coast (Bargman, 1998; Lemberg *et al.*, 1997). The spawning locations and timing are very consistent and predictable from year to year (Hay and Outram, 1981; O'Toole *et al.*, 2000).

Herring spawning time varies with latitude. In the south, spawning begins in November; farther north it begins in August (Lassuy 1989; Emmett et al., 1991). Spawning peaks in February and March in Puget Sound (Trumble, 1983); however, the Cherry Point population spawns from early April to early June, with peak spawning in May (O'Toole *et al.*, 2000). Pacific herring usually spawn at night in shallow subtidal zones (Emmett *et al.*, 1991; Bargman, 1998). In Puget Sound, a significant amount of spawning takes place during the day (Washington Department of Fish and Wildlife (WDFW), 2000). They deposit their eggs over vegetation or other substrates in intertidal and subtidal areas–where they adhere. Normally, this takes place at depths no greater than 2 m below low tide (Emmett *et al.*, 1991).

Pacific herring fecundity increases with the size of the female. A 19–cm female produces 19,000 eggs annually and a 22–cm female produces 29,500 (Hart, 1973). In general, there appears to be a decline in fecundity for a given length when moving from south (Puget Sound) to north (Prince William Sound) and northwest (Peter the Great Bay) (Garrison and Miller, 1982).

Pacific herring larvae range from 5 to 26 mm in length (Emmett *et al.*, 1991). It takes 2 to 3 months for the larvae to

metamorphose into 35 to 150 mm juveniles–depending upon the region (Emmett *et al.*, 1991). Herring juveniles gather in large schools and remain primarily in inshore waters during their first summer. After the first summer they may move offshore until maturation (Stocker and Kronlund, 1985) or remain inshore until their first spawning event (Hay, 1985). Age at first maturity is generally 2 to 5 years (Hay, 1985) and lengths range from 13 to 26 cm (Garrison and Miller, 1982; Emmett *et al.*, 1991). In Puget Sound, Pacific herring may reach sexual maturity at age 2 and lengths of 14 to 16 cm (Katz, 1942). Populations in the Strait of Georgia reach sexual maturity at age 4 (Trumble, 1979).

Consideration as a ''Species'' Under the ESA

To qualify for listing as a threatened or endangered species, the petitioned populations of Puget Sound, copper rockfish, quillback rockfish, brown rockfish, and Pacific herring must be considered ''species'' under the ESA. Section 3(15) of the ESA defines a ''species'' to include any ''distinct population segment of any species of vertebrate which interbreeds when mature.'' On February 7, 1996, the USFWS and NMFS adopted a policy to clarify their interpretation of the phrase ''distinct population segment of any species of vertebrate fish or wildlife'' for the purposes of listing, delisting, and reclassifying species under the ESA (51 FR 4722). The joint policy identifies two elements that must be considered when making DPS determinations: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the species or subspecies to which it belongs.

Discreteness. According to the joint policy mentioned here, a population segment may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors; or (2) it is delimited by international governmental boundaries across which there is a significant difference in exploitation control, habitat management, or conservation status.

Significance. The joint policy states that the following are some of the considerations that may be used when determining the significance of a population segment to the taxon to which it belongs: Persistence of the discrete population in an unusual or unique ecological setting for the taxon; evidence that the loss of the discrete population segment would cause a significant gap in the taxon's range; evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere; or evidence that the discrete population segment has marked genetic differences from other populations of the species.

This status review applies the DPS criteria to marine fish species over a broad area of the North Pacific Ocean and, as noted previously, NMFS' assessment includes populations from a larger range (i.e., U.S. West Coast, British Columbia and southeast Alaska) than the populations petitioned. NMFS considered several kinds of information in the attempt to delineate DPSs of copper rockfish, quillback rockfish, brown rockfish, and Pacific herring. The first kind of information centered on habitat characteristics that might indicate a population segment occupies an unusual or unique ecological setting for the species as a whole. The second kind of information dealt with geographical variability in phenotypic and life-history traits that might reflect local adaptation. Such traits may have an underlying genetic basis, but are often strongly influenced by local environmental factors. The third kind of information consisted of mark-recapture studies, which give insight into individuals' physical movement patterns. The fourth kind of information consisted of traits that are inherited in a predictable way and remain unchanged throughout the life of an individual. Differences among populations in the frequencies of these genetically determined traits may reflect the degree to which the populations are isolated from one another. Based on the DPS criteria described above, and after assessing the best available scientific and commercial information, NMFS has identified DPSs for each petitioned species. These DPSs and the information used to characterize them are discussed below.

General Life History Traits of Rockfish

Copper, quillback, and brown rockfish have a common genetic lineage, the *Pteropodus*subgenus within the genus *Sebastes*(Seeb, 1986; Taylor, 1998; Rocha-Olivares *et al.*, 1999). They are all sedentary, non-schooling fish. The *Pteropodus* rockfish are the shallowest–dwelling group and are most likely to release larvae that are subject to local retention mechanisms such as currents and eddies. The females can regulate where and when they release larvae, typically after the spring upwelling season. At birth, larvae are capable of swimming and buoyancy control. They are larger and more developed than other *Sebastes* larvae (G. Moser, NMFS, pers. comm., cited in NMFS, 2001a), and move to adult habitats at a smaller size (Anderson, 1983; Carr, 1991). These factors alter the period of passive dispersal and shorten the overall planktonic dispersal phase which, in turn, increases larval retention.

The rockfish mating process is a possible mechanism for reproductive isolation as it involves an elaborate behavioral ritual of assortative (non–random) mating (Shinomiya and Ezaki, 1991). Thus, if larvae successfully disperse and recruit to a distant population, localized behavior can prevent successful mating. Analyses of microsatellite nuclear DNA clearly show populations living in the same location assortatively mating despite sharing many other common genetic traits (Narum, 2000). In addition, seasonal reproduction timing may isolate adults from different basins even if they successfully disperse into an adjacent basin. If colonists from areas of the outer coast migrate to different portions of the Georgia Basin it is likely that their differences in color pattern, mating behavior, or reproduction timing would lead to reproductive isolation.

The *Pteropodus* rockfishes have a strong homing tendency and reef fidelity. Also, on high–relief reefs in Puget Sound, they maintain small home ranges (within 30 m^2) (Matthews 1990a). On low–relief reefs, they have considerably larger home ranges (400 to 1500 m^2). They inhabit low-relief reefs during the summer–coinciding with peak algal cover and return to high-relief reefs for the winter (Matthews, 1990a). All of these life history characteristics indicate that their dispersal is limited.

Copper Rockfish

NMFS examined a number of studies to determine whether the petitioned Puget Sound populations are reproductively isolated enough to be distinct from coastal populations (or each other). NMFS assessed information showing statistically significant morphometric and meristic differences between Puget Sound copper rockfish and those from Monterey and Southern California (Chen, 1986). In contrast, there was not enough evidence to show that Puget Sound populations were isolated from other populations in the Georgia Basin or on the outer coast.

NMFS also analyzed the considerable genetic evidence to further evaluate population discreteness. For instance, Seeb (1998) examined allozyme patterns

and microsatellite DNA differences in Puget Sound copper rockfish and those from the coastal waters of Southern California to Alaska. The results showed a significant, genetically based population structure over the entire sample range and demonstrated a marked degree of genetic divergence between populations in Puget Sound ''proper'' and Northern Puget Sound. Puget Sound proper is the body of water east of Deception Pass and to the south and east of Admiralty Head–encompassing Southern Puget Sound, Whidbey Basin, Hood Canal, and the Main Basin.

Another study (P. Wimberger, University of Puget Sound (UPS), pers. comm. cited in NMFS, 2001a) examined genetic variations in seven populations of copper rockfish from Southern California to British Columbia (with particular attention given to the populations in Puget Sound and the greater Georgia Basin). The study indicates that Puget Sound populations show significant genetic divergence from populations outside of the Sound. In fact, all populations sampled were genetically different from the two oceanic populations with the exceptions of samples from the San Juan Islands and northern Vancouver Island. The San Juan Island population appears equally differentiated from populations from the Canadian Gulf Islands in the Strait of Georgia, northern Vancouver Island, and Puget Sound proper. A more recent study examined the population structure in copper rockfish along the outer coast and within the Puget Sound (unpublished manuscript, R. Vetter, NMFS, pers. comm. cited in NMFS, 2001a). It shows that Puget Sound populations have a much greater genetic distance from the nearest population outside the Sound than geographic distance alone would indicate. The results also show Puget Sound proper populations to be genetically distinct from populations in the San Juan Islands and the rest of the Georgia Basin.

NMFS also analyzed habitat characteristics for copper rockfish to determine if Puget Sound copper rockfish occupied a unique setting within the biological species as a whole. Puget Sound and the greater Georgia Basin are of recent post-glacial origin. The geological history and present day physical characteristics may affect rockfish colonization and movement. NMFS found that the long and sinuous water bodies, shallow sills, and estuarine current patterns that characterize the Puget Sound may limit larval movements into and out of different basins. For example, one study examined circulation patterns between North Puget Sound and South Puget Sound using drift cards (T. Klinger, University of Washington, pers. comm. cited in NMFS, 2001a). The study indicated that virtually nothing on the surface enters the main basin of Puget Sound from the San Juan Islands or Eastern Basin of the Strait of Juan de Fuca. However, general circulation studies identified some mixing of subsurface waters near the sills, so limited exchange is possible. Freshwater inputs differ among the regions of the Georgia Basin and between the Basin and the outer coast, suggesting that lower salinity could promote local adaptation and prevent foreign larvae from recruiting to those areas (NMFS, 2001a).

In addition, the life history traits of copper rockfish, such as the fact that they are live–bearing, use internal fertilization, have short pelagic larval stages, exhibit adult-specific fidelity to certain habitat, and may be physically isolated due to current conditions in Puget Sound, are evidence of isolating mechanisms that are consistent with the genetic information.

DPS Determination. NMFS concludes that the best available information indicates that copper rockfish populations are divided into a Puget Sound proper DPS, a Northern Puget Sound DPS, and a coastal DPS. The Puget Sound proper DPS encompasses the populations in the body of water east of Deception Pass and to the south and east of Admiralty Head–encompassing Southern Puget Sound, Whidbey Basin, Hood Canal, and the Main Basin. The Northern Puget Sound DPS comprises populations in the San Juan Islands, the Strait of Juan de Fuca, and the Canadian Gulf Islands. The provisional boundaries of this DPS extend to an uncertain degree further north into the rest of the Georgia Basin. The coastal DPS consists of populations from California to Alaska and has a provisional boundary at Cape Flattery with the Northern Puget Sound DPS.

NMFS considered several DPS configurations for copper rockfish in the northeastern Pacific Ocean in attempting to identify ''discrete'' and ''significant'' segments of the biological species that incorporates Puget Sound populations. The considerable genetic evidence shows significant reproductive isolation between the Puget Sound proper DPS, the Northern Puget Sound DPS, and the coastal DPS. Rockfish life history traits and Puget Sound's unique habitat characteristics further support these DPS configurations. Although some genetic data suggest that multiple populations may exist within the Northern Puget Sound DPS, NMFS believes that there is not enough evidence to support geographically smaller DPSs.

Quillback Rockfish

NMFS reviewed a number of genetic studies to determine whether the Puget Sound populations are reproductively isolated from the coastal populations (or each other). One study examined specimens from California, Washington, and Alaska, including five locations within the Georgia Basin (Seeb, 1998). Allele frequencies were remarkably different between Puget Sound proper and even the closest location (San Juan Islands). Another study compared two sites in the Puget Sound with populations in the San Juan Islands, WA, Sitka, AK, and Prince William Sound in Alaska (P. Wimberger, UPS, pers. comm. cited in NMFS, 2001a). The genetic differences increased with greater geographic distance. The genetic information also indicated that the San Juan Islands population was more similar to the Sitka population than the Puget Sound population. The study supported the conclusions of Seeb's (1998) genetic research.

In addition to the genetic information, NMFS reviewed the habitat characteristics for quillback rockfish to determine if Puget Sound quillback rockfish occupied a unique setting within the biological species as a whole. The habitat characteristics contributing to copper rockfish reproductive isolation are also considered isolating mechanisms for quillback rockfish. And, as with copper rockfish, quillback rockfish life history traits are evidence of isolating mechanisms that are consistent with the genetic information.

DPS Determination. NMFS concludes that the best available information indicates that quillback rockfish populations are divided into a Puget Sound proper DPS, a Northern Puget Sound DPS, and a coastal DPS. The Puget Sound proper DPS comprises populations east of Deception Pass and to the south and east of Admiralty Head. The Northern Puget Sound DPS consists of populations in the San Juan Islands, the Strait of Juan de Fuca, and the Canadian Gulf Islands. The provisional boundaries of this DPS extend to an uncertain degree further north into the rest of the Georgia Basin. The coastal DPS consists of populations from California to Alaska and has a provisional boundary at Cape Flattery with the Northern Puget Sound DPS.

NMFS considered several DPS configurations for quillback rockfish in the northeastern Pacific Ocean in attempting to identify ''discrete'' and

''significant'' segments of the biological species that incorporates Puget Sound populations. The considerable genetic evidence shows significant reproductive isolation between the Puget Sound proper DPS, the Northern Puget Sound DPS, and the coastal DPS. Rockfish life history traits and the Puget Sound's unique habitat characteristics further support these DPS configurations. While there are presently very few data and many uncertainties regarding the exact northern boundary of the Northern Puget Sound DPS, NMFS believes that the best available information does not support grouping this DPS with a larger coastal DPS.

Brown Rockfish

To determine whether the petitioned Puget Sound populations are distinct from other Georgia Basin or coastal populations, NMFS examined genetic studies to determine if they were reproductively isolated. As with copper rockfish, Seeb (1998) analyzed allozyme patterns and microsatellite DNA to compare two Puget Sound locations with California samples. The allozyme frequencies differ significantly between the Puget Sound population and the California population.

Brown rockfish life histories and habits differ from those of quillback and copper rockfish; however, the habitat characteristics and key life history traits that contribute to their isolation are found among brown rockfish as well (i.e., they are live-bearing, use internal fertilization, and have short pelagic larval stages).

In 1987, trawl surveys detected brown rockfish in Northern Puget Sound, but no brown rockfish were collected in subsequent surveys (W. Palsson, WDFW, pers. comm. cited in NMFS, 2001a). Video-Acoustic Technique (VAT) surveys did not detect brown rockfish in Northern Puget Sound in 1994 or 1995, but small numbers were detected in the Strait of Juan de Fuca in 1996 (Pacunski and Palsson, 1998). Brown rockfish are considerably rare or non-existent off the coasts of Washington and Oregon, however they are relatively common in California. This large disjunction indicates that the Puget Sound populations inhabit an ecologically unique habitat. In addition, current conditions in Puget Sound also provide a physical isolating mechanism that is consistent with the genetic information.

DPS Determination. NMFS concludes that the best available information indicates that brown rockfish populations are divided into a Puget Sound proper DPS and a coastal DPS. The Puget Sound proper DPS comprises those populations in the the body of water east of Deception Pass and to the south and east of Admiralty Head. The coastal DPS encompasses populations from California to Alaska although the extent of the DPS is unknown.

NMFS considered several DPS configurations for brown rockfish in the northeastern Pacific Ocean in attempting to identify a ''discrete'' and ''significant'' segment of the biological species that incorporates Puget Sound populations. The genetic evidence shows significant reproductive isolation between the Puget Sound proper DPS and the coastal DPS. Rockfish life history traits and the Puget Sound's unique habitat characteristics further support these DPS configurations. Unlike copper and quillback rockfish, brown rockfish do not appear to reside in Northern Puget Sound and the Strait of Georgia. Although brown rockfish are occasionally found in Washington coastal and inland waters outside of Puget Sound proper (i.e., east of Cape Flattery), information suggests that these individuals are vagrants from the Puget Sound proper DPS.

Pacific Herring

As previously noted, the WDFW recognizes 18 spawning populations of Pacific herring in Puget Sound; these are based on spawn timing and location: (1) Squaxin Pass, (2) Quartermaster Harbor, (3) Port Orchard-Port Madison, (4) South Hood Canal, (5) Quilcene Bay, (6) Port Gamble, (7) Kilisut Harbor, (8) Port Susan, (9) Holmes Harbor, (10) Skagit Bay, (11) Fidalgo Bay, (12) Samish Bay-Portage Bay, (13) Interior San Juan Islands, (14) Northwest San Juan Islands, (15) Semiahmoo Bay, (16) Cherry Point, (17) Discovery Bay, and (18) Dungeness Bay (Lemberg et al., 1997; O'Toole *et al.*, 2000). Koenigs (2000) supplied updated information indicating that spawning Pacific herring were found in Wollochet Bay in 2000, suggesting a 19th spawning population in Puget Sound. The Canada Department of Fisheries and Oceans (DFO) recognizes multiple spawning aggregates in the Strait of Georgia but manages them as one population.

NMFS reviewed a number of genetic studies to determine whether the petitioned Puget Sound populations are distinct from each other (or from coastal and Northern Georgia Basin populations). Genetic studies indicate no significant differences in allele frequencies between samples from the Puget Sound and the Washington coast (Utter, 1972). Samples collected from Oregon to Kodiak Island, Alaska, did not suggest significant genetic differentiation among these populations either (Utter *et al.*, 1974). However, studies did indicate reproductive isolation between the Asian-Bering Sea populations and the populations in the eastern North Pacific (Grant and Utter, 1984; Kobayashi, 1993; Seeb *et al.*, 1999).

NMFS analyzed tagging studies to determine the amount of spawning-site fidelity within the populations. Although there were few available tagging data from fish spawning in Puget Sound, tagging data from British Columbia populations indicated various degrees of spawning-site fidelity among different spawning locations. However, the same studies also showed movement into other known spawning areas in the Georgia Basin. These results indicate that there is sufficient migration to support genetic homogeneity among the distinct spawning aggregates, indicating a larger genetic population structure than the petitioner suggested.

Larval distribution studies in the Queen Charlotte Islands, North Coast of British Columbia, and Strait of Georgia management regions indicate that Pacific herring larvae mix extensively outside of natal spawning locations but tend to remain within the regional boundaries (Hay and McCarter, 1997). Extensive larval mixing within regions indicates that Pacific herring population structure is established at early life-history stages and is independent of the exact spawning location. The studies also substantiate the idea that natural barriers and current-induced gyres act as larval retention mechanisms in the Strait of Georgia, indicating that the Strait of Georgia population is largely reproductively isolated from the coastal populations. There were no studies of this type for the Puget Sound populations. However, the available evidence supports the hypothesis that there is enough intermingling between distinct spawning aggregates to define a population structure that is larger than Puget Sound.

NMFS also looked at morphometric and meristic differences to further evaluate population discreteness. Several morphometric and meristic characters showed detectable differences between Strait of Georgia Pacific herring populations and those in northern British Columbia (Meng and Stocker, 1984). Southern Puget Sound populations had different average vertebral counts from those found in the Pacific herring population whose spawning aggregation was closer to the open ocean (Katz, 1942), and average vertebral counts from British Columbia populations were notably different from those exhibited by California (Thompson, 1917) and Alaska

populations (Rounsefell, 1929; Rounsefell, 1930). There was not enough morphometric or meristic information to support a Puget Sound DPS; however, the data do indicate that inshore populations are detectably different from coastal populations.

NMFS analyzed other available information regarding the reproductive isolation of Puget Sound Pacific herring but found no evidence of discreteness to support a Puget Sound DPS. For example, though populations of Pacific herring sampled in Puget Sound and British Columbia showed significant differences in growth rate and length at various year classes (Trumbull, 1980; Gonyea and Trumble, 1983; Ware, 1985; Schweigert, 1991; O'Toole, 2000), these differences may simply be because some of the resident herring grow more slowly than migratory herring due to poorer food production in the nearshore environment (Ware, 1985). Several studies indicated Pacific herring fecundity differences at given lengths over large geographic distances, but this is because fecundity at a particular length decreases with an increase in latitude and the concomitant decline in environmental temperature (Paulson and Smith, 1977; Hay, 1985; Lassuy, 1989). Pacific herring in the north ultimately grow much larger, live longer, and consequently produce more ova than Pacific herring in the south (Katz, 1948). There was insufficent parasitological or age at maturity information to show whether the Puget Sound population is structured on a finer scale.

NMFS also looked at Pacific herring habitat characteristics to determine if the populations in the Georgia Basin occupied a unique setting within the biological species as a whole. NMFS finds that the habitat characteristics contributing to rockfish isolation also isolate Pacific herring in the Georgia Basin.

DPS Determination. NMFS concludes that the Pacific herring populations identified by the petitioner do not constitute a ''species'' under the ESA, but are part of a larger Georgia Basin Pacific herring DPS that consists of inshore populations from Puget Sound and the Strait of Georgia. This DPS encompasses the 18 spawning populations in Puget Sound and the Strait of Georgia populations recognized by the WDFW and DFO.

NMFS considered several DPS configurations for Pacific herring in the northeastern Pacific Ocean in attempting to identify ''discrete'' and ''significant'' segments of the biological species that incorporates Puget Sound populations. Evidence that NMFS looked at appeared contradictory, such as (1) observed rates of straying of adult and juvenile Pacific herring and the lack of consistent genetic differentiation among regional populations, and (2) the consistency of timing and specific spawning locations. However, this evidence is consistent with the metapopulation concept that has been used to describe stock structure of Atlantic herring (McQuinn, 1997). The metapopulation concept shows that distinct populations can exhibit these types of discreteness and mixing by explaining that larger populations are made up of smaller local breeding populations that interact genetically and ecologically (National Research Council, 1995).

Status of Copper, Quillback, and Brown Rockfish and Pacific Herring DPSs

In considering whether these DPSs should be listed as threatened or endangered under the ESA, NMFS evaluated both qualitative and quantitative information. The qualitative evaluations included recent, published assessments by a variety of sources, and the quantitative assessments were based on current and historical abundance information and time series data compiled principally by fisheries agencies in Washington and Canada. NMFS focused on information and risk assessments pertaining to those rockfish and herring DPSs containing the petitioned populations within Puget Sound, i.e., the coastal DPSs for rockfish were not evaluated as they were outside the scope of the petition.

General Risk Factors for Rockfish

In general, recreational rockfish harvest rates showed a precipitous decline in Puget Sound proper from 1.01 fish/trip in 1977 to approximately 0.50 fish/trip in 1994. After 1994, the catch rates dropped to between 0.27 and 0.30 fish/trip and remained there (W. Palsson, WDFW, pers. comm. cited in NMFS, 2001a). Catch rates after 1994 may have become stable because the bag limit was reduced from five to three rockfish in Puget Sound proper. The percentage of brown rockfish in the catches declined through the 1980s and mid-1990s, but increased in the late 1990s. The recreational catch composition of copper and quillback rockfish was about the same from 1980 to 1989, however there was a noticeable decline of quillback rockfish in 1996. Declines in catch rates and relatively high densities of rockfish in unfished marine protected areas indicate that harvesting has affected population size.

The catch per trip of all rockfish species in Northern Puget Sound from 1980 to 1999 fluctuated between 0.6 and 1.2 with no apparent trend after a decline from higher levels (1.2 to 1.8) in the late 1970s. In 1980, copper rockfish constituted 30 percent of the recreational catch of rockfish in this area. The composition of copper rockfish fluctuated from 32 to 65 percent between 1984 and 1999. Copper rockfish remain common in Northern Puget Sound, making up 30 to 60 percent of the recreational catch, although fishery data indicate that they have declined. From 1980 to 1999, quillback rockfish constituted 20 to 40 percent of the recreational catch of rockfish in this area, and the trend has decreased over time. In 1994, the bag limit was reduced from 10 to five rockfish in Northern Puget Sound to reduce fishing mortality.

Richards and Cass (1987) reported decreases in the rockfish population in the Strait of Georgia, with overharvest cited as the major factor. Subsequently, the catch per effort of the copper and quillback rockfish complex has declined moderately in the Queen Charlotte Strait, Campbell River area, and Gulf Islands.

Nearshore nursery habitat degradation and shoreline modification may decrease juvenile rockfish survival. Early life stages usually settle into intertidal/subtidal habitats, commonly associated with eelgrass and kelp beds, and these habitats have declined in both extent and quality in the Puget Sound (West, 1997). Studies indicate that rockfish are not major components of pinniped diets (Everitt *et al.*, 1981) but are an important prey item for the Oregon Coastal common murre (*Uria aalge*) (Wiens and Scott, 1975). However, according to Mahaffy *et al.* (1994), the populations of common murre in the Georgia Basin are quite small. Similarly, it is unclear how changes in the abundance of other fish species may affect rockfish populations in Puget Sound.

Heavy metals, pesticides, and other contaminants in the concentrations occurring in Puget Sound may be toxic to rockfish. Studies confirm that rockfish accumulate certain chemicals in urban areas of the Georgia Basin (Malins *et al.*, 1982; West *et al.*, 1998; Puget Sound Water Quality Action Team, 2000; G. Ylitalo, NMFS, and J. West, WDFW, unpublished data). It has not yet been established what levels of contaminants are likely to affect rockfish health. Research investigating the effects of contaminants on other species in Puget Sound show sublethal effects that include biochemical alterations and effects on growth, reproductive function, larval growth

and survival, embryonic malformation, and disease resistance (Meador, 2000; Beckvar *et al.*, 1996). However, the effects of contaminants on rockfish are unclear.

Puget Sound Proper Copper Rockfish DPS

Population assessments for copper rockfish based on VAT surveys estimated that there were approximately 450,000 copper rockfish in Puget Sound proper (average) between 1993 and 1996 (Pacunski and Palsson, 1998). Palsson (WDFW, pers. comm., cited in NMFS, 2001a) provided information indicating that copper rockfish are dispersed throughout Puget Sound; however, he noted that there were a number of cases where VAT surveys did not detect the species in areas containing suitable habitat. Self-Contained Underwater Breathing Apparatus (SCUBA) surveys conducted in the Main Basin of Puget Sound in 1987 and 1988 showed an average of 42 copper rockfish per 270 m^2 transect (Matthews, 1990). Surveys conducted between 1995 and 1997 showed approximately six copper rockfish per 270 m^2 transect in similar transects (W. Palsson, WDFW, pers. comm. cited in 2001a).

Bottom trawl surveys were conducted annually in the Main Basin of Puget Sound between 1987 and 1995 (W. Palsson, WDFW, pers. comm. cited in NMFS, 2001a). Copper rockfish abundance was estimated at 183,000 in 1987 and rose to 1,010,000 in 1989. Abundance since 1989 declined to 35,000 in 1995. Changes in survey methodology and seasonality may have contributed to some of these apparent changes in abundance.

Copper rockfish egg production was estimated from 1975 to 1999 using data from recreational catch surveys. Relative egg production peaked in 1977 and declined rapidly through the 1980s (W. Palsson, WDFW, pers. comm. cited in NMFS, 2001a). During the 1990s, egg production was somewhat constant ranging from 10.5 to 28.7 percent of peak production in South Puget Sound. The decrease in egg production coincides with the considerable decline in copper rockfish abundance.

As noted previously, NMFS has found that this DPS consists of populations in waters east of Deception Pass and to the south and east of Admiralty Head. Although populations of this species have declined over the last four decades with over-harvesting a likely major factor, the populations have appeared stable over the last 5 years. Further, the reductions in the recreational fishery bag limit and voluntary establishment of some no-take marine reserves have reduced current levels of fishing mortality. In addition, the lower population numbers in this DPS compared to the larger numbers in northern Puget Sound are roughly in proportion to the greater amounts of kelp and high relief habitat in Northern Puget Sound. Therefore, NMFS concludes that the Puget Sound proper copper rockfish DPS is not presently in danger of extinction nor is it likely to become so in the foreseeable future.

Northern Puget Sound Copper Rockfish DPS

As discussed previously, Pacunski and Palsson (1998) reported on VAT surveys conducted in Puget Sound. In 1994, the populations of copper rockfish in the San Juan Islands and Strait of Juan de Fuca were estimated at approximately 2,000,000 and 530,000 fish, respectively. Surveys in 1996 yielded no significant difference from the 1994 estimates.

In addition, the WDFW conducted trawl surveys annually in North Puget Sound between 1987 and 1995 to determine population trends (Palsson pers. comm. cited in NMFS, 2001a). Copper rockfish abundance was estimated at 72,000 in 1987 and decreased to 17,000 in 1995. Length frequency data from the recreational fishery catch show a decline in the average length because there was a reduction in the number of fish greater than 45 cm; however most of the decline occurred before 1985. Copper rockfish egg production from 1975 to 1999 was similar to egg production in Puget Sound proper (Palsson pers. comm. cited in NMFS, 2001a).

As noted previously, NMFS has found that this DPS comprises populations in the San Juan Islands, the Strait of Juan de Fuca, and the Canadian Gulf Islands with a provisional boundary extending to an uncertain degree further north into the rest of the Georgia Basin. It is apparent that copper rockfish persist throughout the range of this DPS and that their abundance in Northern Puget Sound is substantial (two million in the VAT survey). The populations in this DPS do not exhibit dramatic downtrends in most of the indicators for this area, but there are not enough data to quantitatively assess and project the trends in the population. Further, the reductions in the recreational fishery bag limit and voluntary establishment of some no-take marine reserves have reduced current levels of fishing mortality. Therefore, NMFS concludes that the Northern Puget Sound copper rockfish DPS is not presently in danger of extinction nor is it likely to become so in the foreseeable future.

Puget Sound Proper Quillback Rockfish DPS

VAT survey assessments between 1993 and 1996 showed approximately 300,000 quillback rockfish in Puget Sound proper (Pacunski and Palsson, 1998). Palsson (WDFW, pers. comm. cited in NMFS, 2001a) provided information indicating that quillback rockfish are dispersed throughout Puget Sound; however, he noted that there were a number of cases where VAT surveys did not detect the species in areas containing suitable habitat.

SCUBA surveys conducted between 1987 and 1997 in the Main Basin of Puget Sound have shown a substantial decline in the densities of quillback rockfish. Densities in 1987 and 1988 showed an average of 181 quillback rockfish per 270 m2 transect (Matthews, 1990). Surveys conducted between 1995 and 1997 showed approximately 28 quillback rockfish per 270m2 transect. However, the trawl surveys conducted annually in the Main Basin of Puget Sound between 1987 and 1995 depict a more stable trend in the estimated abundance. These surveys yield estimated abundances of quillback rockfish in 1987 and 1989 of 1,153,000 and 1,055,000, respectively. In 1991, this value declined to 668,000 and gradually increased to 766,000 in 1995 (W. Palsson, WDFW, pers. comm. cited in NMFS, 2001a).

As noted previously, NMFS has found that this DPS consists of populations in waters east of Deception Pass and to the south and east of Admiralty Head. Although 1997 SCUBA surveys show that quillback rockfish are at 15 percent of their 1987-1988 population level, the VAT and trawl surveys depict a more stable population over the last 5 years. In addition, the reductions in the recreational fishery bag limit and voluntary establishment of some no-take marine reserves have reduced current levels of fishing mortality. Moreover, the lower population numbers in this DPS compared to the larger numbers in northern Puget Sound are roughly in proportion to the greater amounts of kelp and high relief habitat in Northern Puget Sound. Therefore, NMFS concludes that the Puget Sound proper quillback rockfish DPS is not presently in danger of extinction nor is it likely to become so in the foreseeable future.

Northern Puget Sound Quillback Rockfish DPS

The WDFW conducted trawl surveys annually in Northern Puget Sound (San Juan Islands and the Strait of Juan de Fuca) between 1987 and 1995 to determine population trends (Palsson,

pers. comm. cited in NMFS, 2001a). Estimated quillback rockfish abundance from these surveys was 30,000 in 1987 and fluctuated from 363,000 in 1989 to 123,000 in 1991. In 1995, the species' abundance was estimated at 42,000 fish. However, VAT surveys conducted in Puget Sound between 1993 and 1996 give a different indication about the relative abundance of quillback rockfish in Northern Puget Sound (Pacunski and Palsson, 1998). In 1994, the population of quillback rockfish was estimated at approximately 1,000,000 fish, while 1996 surveys yielded estimates closer to 141,000 fish.

As noted previously, NMFS could not identify a definitive northern boundary for this DPS, but believes that it extends to an uncertain degree north into the Georgia Basin. There are not enough data to quantitatively assess the extinction risk of the Northern Puget Sound quillback rockfish DPS. However, it is apparent that the species persists throughout the range of this DPS and its abundance in Northern Puget Sound is substantial (i.e., estimated at one million fish in the VAT survey). The populations in this DPS lack a dramatic downtrend in most of the indicators for this area. Further, the reductions in the recreational fishery bag limit and voluntary establishment of some no-take marine reserves have reduced current levels of fishing mortality. Therefore, NMFS concludes that the Northern Puget Sound quillback rockfish DPS is not presently in danger of extinction nor is it likely to become so in the foreseeable future.

Puget Sound Proper Brown Rockfish DPS

VAT survey assessments between 1993 and 1996 estimated approximately 98,000 brown rockfish in Puget Sound proper (Pacunski and Palsson, 1998). The SCUBA surveys conducted between 1987 and 1997 in the Main Basin of Puget Sound show a steady increase in brown rockfish densities. In 1987, densities were 2.5 fish per 270 m^2 transect, whereas in 1997 there were more than 18 fish per transect.

The trawl surveys conducted annually in the Main Basin of Puget Sound between 1987 and 1995 (W. Palsson, WDFW, pers. comm. cited in 2001a). The estimated abundance of brown rockfish in 1987 was 761,000. This value declined to 23,000 in 1991 and rose slightly to 30,000 in 1995. Marine Recreational Fisheries Statistics Surveys show variable recreational catches ranging from 800 to 6,000 fish between 1996 and 1999 in Puget Sound proper. The highest catch rates were in 1997 and 1999.

As noted previously, NMFS has found that this brown rockfish DPS consists of populations in waters east of Deception Pass and to the south and east of Admiralty Head. Available evidence indicates (1) an increased abundance of brown rockfish in central Puget Sound during the late 1990s, (2) a stable population size in the Main Basin of the Puget Sound during the 1990s, and (3) increased relative percent of brown rockfish in the recreational catch composition during the late 1990s. In addition, the reductions in the recreational fishery bag limit and voluntary establishment of some no-take marine reserves have reduced current levels of fishing mortality. Moreover, brown rockfish are habitat generalists, making them more adaptable to the types of intertidal and subtidal habitats and associated food organisms available in the range of the DPS. Therefore, NMFS concludes that the Puget Sound proper brown rockfish DPS is not presently in danger of extinction, nor is it likely to become so in the foreseeable future.

General Risk Factors for Pacific Herring

NMFS looked at a number of factors that are potential risks to Pacific herring populations in the Georgia Basin. While there are data on some risk factors, others are not well documented or only suspected to be factors for decline. Examples of the latter include habitat alterations in Puget Sound that reduced the amount of eelgrass (a probable preferred spawning habitat). Pacific herring are prey for many marine birds, but predator consumption estimates were not available. The chemical contaminants that potentially affect rockfish are also considered potential risks to Pacific herring. Many of these contaminants have known negative effects on aquatic organisms; however, their effects on the Pacific herring populations in Puget Sound are not known.

Birds and other animals prey on Pacific herring eggs but it is difficult to estimate their effect on egg mortality (Palsson, 1984). West (1997) also suggested that the increased abundance of Pacific hake (Merluccius productus) in offshore waters may be adversely affecting the Pacific herring populations. In addition, changes in spiny dogfish (*Squalus acanthias*) abundance and the release of yearling hatchery chinook salmon (*Oncorhynchus tshawytscha*) could account for some of the increased non-fishing mortality. The declines in some of the Puget Sound populations coincide with the recent warm/dry conditions in the Pacific Northwest. Similar conditions occurred during the 1930s when Chapman *et al.* (1941) reported that the Discovery Bay and Cherry Point populations were at low levels.

In contrast, NMFS was able to examine more quantitatively the possible effects of harvest and pinniped predation on Pacific herring in the Georgia Basin. For instance, harbor seal (*Phoca vitulina*) activity increased near schools of Pacific herring, consequently changing their schooling behavior (N. Lemberg, WDFW, pers. comm., cited in West, 1997). Harbor seals consumed an estimated 3,206 mt of Pacific herring in the Canadian portion of the Strait of Georgia during 1988, which represented 9.6 percent of the spawning biomass (Olesiuk *et al.*, 1990). Pacific herring constituted 32.4 percent of the area's harbor seal diet in 1988. NMFS (1997) estimated that harbor seals consumed 4,859 mt of Pacific herring in Washington inland waters during 1993, which represented 34.9 percent of the estimated spawning biomass for that year. California sea lions (*Zalophus californianus*) consumed an estimated 830 mt of Puget Sound Pacific herring per year (on average) between 1986 and 1994 (NMFS 1997).

Georgia Basin Pacific Herring DPS

The Pacific herring populations in Puget Sound reported by Bargmann (1998) as ''depressed'' or ''critical'' show a marked decline in biomass from 1973 to 1999. For instance, the Cherry Point population has historically been the largest Puget Sound population, estimated at 14,998 tons in 1973. Spawn deposition surveys showed that the biomass decreased to 1,266 tons in 1999 (K. Stick, WDFW, pers. comm. cited in NMFS, 2001b). The Discovery Bay stock, the largest Strait of Juan de Fuca population, was believed to be one of the largest populations in Washington waters. This population fluctuated between 697 tons and 3,220 tons from 1976 to 1993 (K. Stick, WDFW, pers. comm. cited in NMFS, 2001b). After 1993, the population dramatically declined to 199 tons in 1997; however, the 1999 trawl surveys showed an increase in biomass to 307 tons (K. Stick, WDFW, pers. comm. cited in NMFS, 2001b). The Port Susan and Port Orchard/Port Madison populations also exhibited distinct downward trends. However, the 1999 surveys showed an increase in the Port Orchard/Port Madison estimates from 489 tons to 1,900 tons (K. Stick, WDFW, pers. comm. cited in NMFS, 2001b).

Herring populations from other spawning sites within Puget Sound did not show the marked declines seen with

the four ''depressed'' or ''critical'' populations. Many of these populations appear stable and healthy. For instance, the Kilisut Harbor populations fluctuated from 279 tons in 1975 to 850 tons in 1999. The Quartermaster Harbor, Dungeness Bay, Skagit Bay, Fidalgo Bay, and Samish-Portage Bay populations experienced similar populations trends during that time period.

Biomass in the Canadian portion of the Strait of Georgia, estimated from spawn deposition surveys, did not show the severe downward trends observed for some of the Puget Sound populations. The population was at relatively high levels in recent years, fluctuating between 67,031 metric tons (mt) in 1990 to 83,450 mt in 1999 (Schweigert and Fort, 1999).

Recreational fishery landings in Puget Sound are insignificant, and commercial fishing for Pacific herring has not been allowed in Washington coastal waters west of the Strait of Juan de Fuca. In Puget Sound, the sac roe fishery closed in 1981, and was followed by a general purpose fishery closure in 1983. The spawn-on-kelp fishery began in 1990 and continued on a limited basis until 1996. A low level sport bait fishery continues, primarily in central and south Puget Sound. Commercial landings were historically modest and did not exceed 1,000 tons until 1958 and then remained above 1,000 tons until 1983 (K. Stick, WDFW, pers. comm. cited in NMFS, 2001b). Since then, landings have ranged from 1,076 tons in 1990 to 361 tons in 1998, which is well below peak landings of 7,171 tons in 1975 (K. Stick, WDFW, pers. comm. cited in NMFS, 2001b). Native American tribes have conducted a significant Pacific herring fishery in the past, but these efforts were curtailed in 1996 due to concerns about the species' declining abundance.

Bargmann (1998) reported that natural herring mortality rates increased significantly from 1976 to 1995. In addition, the number of age groups comprising the bulk of the populations decreased from five to two or three during this time period. While Pacific herring formerly lived to ages exceeding 10 years, fish older than 6 years are now rare (Bargmann, 1998). British Columbia populations did not exhibit a decrease in abundance of older fish comparable to the decrease in Puget Sound populations (Schweigert and Fort, 1999). However, weight at age has decreased in all major British Columbia populations since the mid- to late 1980s (Stocker and Kronlund, 1998), which is consistent with the decline observed for the Cherry Point population. Numbers of 3–year–old fish in the Cherry Point population were approximated for the 1971–1975 and 1996–1999 period. This study indicated a considerably higher recruitment of 3–year–old fish during 1971 to 1976 than in later years. Reduced recruitment of 3–year–old Pacific herring and increased non-fishery related losses of older fish appear to be the primary causes for declining biomass of the Cherry Point populations and, perhaps, other Puget Sound populations as well.

As noted previously, NMFS has found that this Pacific herring DPS consists of populations from Puget Sound and the Strait of Georgia. Therefore, NMFS' risk assessment included more populations than those addressed in the petition. The British Columbia populations do not appear to be declining or at the low levels observed for some of the Puget Sound populations. Consequently, the population declines apparent in Puget Sound do not appear to be widespread throughout the range of the DPS. Moreover, because of the moderate to high productivity of Pacific herring populations and their tendency to stray among spawning sites, there are reasonable possibilities for reversing declines of depleted populations in specific spawning sites. Therefore, NMFS concludes that the Georgia Basin Pacific herring DPS is not presently in danger of extinction nor is it likely to become so in the foreseeable future.

Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, that are being made to protect such species.

After reviewing the best available scientific and commercial information for these species, NMFS concludes that for the three rockfish species reviewed, petitioned populations comprise five DPSs under the ESA: (1) A Puget Sound proper copper rockfish DPS; (2) a Northern Puget Sound copper rockfish DPS; (3) a Puget Sound proper quillback rockfish DPS; (4) a Northern Puget Sound quillback rockfish DPS; and (5) a Puget Sound proper brown rockfish DPS. In addition, NMFS concludes that the petitioned populations of Pacific herring do not constitute a ''species'' under the ESA, but are part of a larger Georgia Basin Pacific herring DPS that consists of inshore populations from Puget Sound and the Strait of Georgia. After assessing the risk of extinction faced by each DPS, NMFS further determines that none of the rockfish or herring DPSs warrant listing as threatened or endangered at this time.

References

A list of references is available upon request (See **ADDRESSES**).

Authority: 16 U.S.C. 1531-1543 and 16 U.S.C. 1361 *et seq.*

Dated: March 27, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–8049 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 950616159–1055–05; I.D. 022601D]

RIN 0648–ZA16

Northeast Multispecies Fishery; Fishing Capacity Reduction Program

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

ACTION: Notice of proposed fishing capacity reduction program and request for comments.

SUMMARY: The Military Construction Appropriations Act for FY 2001 included an emergency supplemental appropriation for the Northeast multispecies fishery of $10.0 million. The emergency appropriation is intended to support a voluntary fishing capacity reduction program in the Northeast multispecies fishery (FCRP) that permanently removes multispecies limited access fishing permits. NMFS is considering a plan for distributing funds to permit holders in exchange for their permit forfeiture. This document suggests two methods for ranking bids (math programming or correlation with fishing capacity). NMFS is requesting comments on the most appropriate and cost-effective means to accomplish the FCRP's intended goal. NMFS also announces that it will be holding a series of meetings to discuss the program and receive comments and suggestions on implementation.

DATES: NMFS will accept comments through May 25, 2001. Public meetings will be held between May 8, 2001 and May 17, 2001. For specific dates and times, see **SUPPLEMENTARY INFORMATION** under the heading IV. Public Information Meetings.

ADDRESSES: Send written comments on the proposed program to: National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930, Attn: Jack Terrill. The public meetings will be held in Maine, New Hampshire, Massachusetts, Rhode Island, New York, and New Jersey. For specific locations, see **SUPPLEMENTARY INFORMATION** under the heading IV. Public Information Meetings.

FOR FURTHER INFORMATION CONTACT: Jack Terrill, Fishery Administrator, (*Jack.Terrill@NOAA.GOV*) 978–281–9136 or Daniel Morris, Environmental Officer (Daniel.Morris@NOAA.GOV) 978–281–9237.

SUPPLEMENTARY INFORMATION:

I. Background

On July 13, 2000, the President signed the Military Construction Appropriations Act for FY 2001 (Pub.L. 106–246), which authorized a $10 million emergency supplemental appropriation for disaster assistance in the Northeast multispecies fishery. The funds are intended to compensate industry permittees who choose to participate in a program aimed at reducing the permitted fishing capacity in the multispecies fishery. Similar past initiatives have proven successful, but have been the subject of some criticism, as discussed here. This FCRP aims to respond to those criticisms.

The Northeast multispecies fishery has been declared a commercial fishery failure under the authority of section 308(b)(1) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)(1)). Among other things, the declaration was based on incomplete understanding of mechanisms for determining multispecies stock levels. Variables that determine fluctuations in natural mortality were not fully known. For many years, fishing pressure on the multispecies fish stocks increased due to significant technological advances, rapid capitalization, and unlimited permitting, resulting in a decline in stock abundance to record low levels. This led to a determination by NMFS in 1992 that the key multispecies stocks had been overfished. In 1994, Amendment 5 to the Northeast Multispecies Fishery Management Plan (FMP) implemented a 5–year stock rebuilding program with the goal of reducing groundfish fishing effort by 50 percent. Among the other Amendment 5 management actions were limits on the number of vessels in the fishery and on the amount of time many vessels in the fleet could spend at sea with a schedule for reducing days-at-sea (DAS) over several years. In 1996, Amendment 7 to the FMP modified the rebuilding program by imposing a more rigorous DAS reduction schedule, by removing most exemptions from DAS controls, and by providing a more flexible adjustment process to respond to specific resource conditions. Such measures imposed economic hardships; several financial assistance programs were implemented to mitigate the economic impact that reduced time at sea would have on fishermen and fishery-dependent communities.

Even with these effort reduction measures, the amount of effort available to multispecies permittees is still a cause for concern for the New England Fishery Management Council (Council) and NMFS. Of particular concern is the amount of fishing capacity that is permitted and available to the fleet, but is not utilized. According to a recent report of the Council's ad-hoc Capacity Committee (October 4, 2000), the total DAS allocated to the multispecies permittees (in the limited access permit categories) in 1998 was 154,286. Of that total, only 51,880 DAS were reported as being used.

There are many reasons that permitted multispecies effort goes unused. Vessels may be working in other fisheries. Market conditions, (including fish prices, fuel, labor, maintenance, lost opportunity costs and other variables) may not make participation in the multispecies fisheries sufficiently profitable. Vessels may be in need of repair or otherwise inoperable. Adverse weather may prevent or discourage use of DAS. Any one of these reasons or a combination may result in DAS going unused. Additionally, there are many permits in a ''Confirmation of Permit History'' (CPH) status that are currently unassociated with any vessel, but which could be reactivated if the permit owner acquires a new vessel. At present, 85 limited access multispecies permits are in the CPH status. If the multispecies fish stocks begin to recover or market incentives prompt inactive or less than fully active permittees to initiate or to increase their effort in the fishery, then the fishery resource rebuilding program may not achieve its goals.

The degree of effort latency varies as broadly as the reasons for its existence. According to the Report of the Ad-Hoc Capacity Committee, from 1994-1999, 199 vessels with valid multispecies permits in limited access categories did not report any fishing activity in the Northeast region. During that same period, 166 vessels with valid multispecies permits in limited access categories that landed other species did not report any landings of the 10 regulated species of groundfish. Of the 1,315 vessels that landed one or more pounds of any of the 10 regulated species, many did not utilize their full allocation of DAS. Reactivation of this latent effort or the shift of effort from other fisheries to multispecies fisheries could undermine the groundfish resource recovery.

On September 10, 1999, NMFS published the Council-approved control date for the Northeast multispecies and Atlantic sea scallop fisheries (64 FR 49139, September 10, 1999), which may be used for establishing eligibility criteria for future access to these fisheries. At about the same time, the Council established an ad-hoc Capacity Committee to examine and provide recommendations to the Council on the various capacity issues existing within the multispecies and sea scallop fisheries. The Capacity Committee has concluded its year-long deliberations and has provided recommendations to the Council to be developed further by the Council's Groundfish Committee. The Capacity Committee's report discusses measures to consolidate effort in the fishery, to defer or allocate effort, or to provide incentives for vessels to leave the fisheries. The Report of the Ad-Hoc Capacity Committee will be among the many factors the Council will weigh as it develops and implements, by the fall of 2002, the next round of restructuring of the multispecies fishery through Amendment 13 to the FMP. NMFS consulted with the Capacity Committee and Council staff regarding the timing of the implementation of the FCRP with respect to the Council's Amendment 13. The Military Construction Appropriations Act requires ''timely'' disbursal of the funds and implementation of the program.

Review of Previous Efforts—Initial, Expanded Buybacks

Under the provisions of the Emergency Supplemental Appropriations Act of 1994, $2 million was made available as part of the Northeast Fisheries Assistance Program for a pilot program called the Fishing Capacity Reduction Demonstration Program (pilot program). The purpose of that pilot program was to test an approach for permanently reducing the fishing capacity in the Northeast multispecies fishery. On October 11, 1995, NOAA announced that 114 vessel

owners, with vessels worth over $52 million and representing 31 percent of the active groundfish capacity, applied to participate in the pilot program. Under the pilot program, vessel owners submitted bids, that is--the price at which he/she would be willing to forfeit all Federal fishing permits and render the vessel unable to fish. The criterion for selection was the ratio of the bid to the vessel's revenues from groundfish during a specified period. NOAA made grant awards to 11 vessel owners totaling $1.89 million. In addition to the 11 Federal multispecies limited access fishing permits surrendered under the pilot program, an additional 15 limited access fishing permits for the summer flounder, ocean quahog, squid, mackerel, and butterfish fisheries were retired.

The pilot project demonstrated that industry interest in a buy-out was high, and the project seemed to be favorably received by the public. Between September 1996 and May 1998, the program was expanded with very few changes to procedures or selection criteria, and $23 million was awarded to remove an additional 68 vessels from the multispecies fishery, bringing the total number of vessels removed to 79. As with the pilot project, many other limited access permits were forfeited.

In a June 2000 report to the House Committee on Resources, the Government Accounting Office (GAO) presented an analysis of the fishery buyback programs in New England, the Bering Sea, and Washington State, specifically commenting on the New England program as follows:

> [The] New England buyback removed 79 vessels that accounted for 19 percent of the groundfish catch in that fishery. However, 62 additional vessels have become active since the buyback because no steps were taken during the program to prevent previously inactive vessels from engaging in fishing. These vessels have begun to erode the capacity reductions made by the buyback because they have replaced fishing capacity by as much as two-thirds of that purchased through the buyback. (p. 4)

One concern regarding subsequent buyout programs is that, as in the past, previously unutilized capacity or CPH multispecies permits will be activated by the industry to replace any active permits that may be removed through the buyback program and little net reduction in capacity utilization will be realized. GAO recommended that NMFS design future buyback programs to restrict the use of unused permits in the buyback fishery with excess fishing capacity and identify mechanisms to minimize the incentives to increase fishing capacity in a buyback fishery.

In addition, section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes fishing capacity reduction programs to be administered by NMFS under certain conditions and if requested by a fishery management council or the governor of a state. Section 312(b)(1)(B)(i), in particular, requires that the fishery management plan affected by such a program will ''prevent replacement of fishing capacity removed by the program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet.'' In response to the aforementioned criticism from the GAO, the Secretary of Commerce, in a report to the House Committee on Government Reform, committed to applying certain of the section 312(b) conditions to all future fishing capacity reduction programs: ''[E]xcept in the most extreme cases of financial distress in which some form of immediate relief is needed, we will apply section 312(b)(1)(B)[i] requirements to disaster assistance under other authorities even though the practical effect may often be to exclude the use of disaster assistance funds for capacity reduction.'' (Secretary Mineta to the Honorable Dan Burton, dated 9 November 2000).

The fishery has been a limited access fishery and closed to new entrants since implementation of FMP Amendment 5 in May 1994. Vessel upgrades are limited by the FMP as implemented at 50 CFR 648.4(a)(1)(i)(E)-(F). Limitations to upgrading of vessel horsepower, length, and tonnage are discussed in the proposed program details below. Finally, effort control measures have been in place in the multispecies fishery since May 1994 and, though modified since, remain in effect.

Although there is no measure proposed as part of this FCRP that would restrict the activation of unused permits in the buyback fishery, the Council's establishment of a control date for the multispecies and Atlantic sea scallop fisheries is an existing measure that is intended to discourage speculative reactivation of latent capacity. Further, the proposed FCRP has been designed to encourage participation by permittees who are presently not active in the fishery and who comprise some proportion of the finite capacity pool. These permittees are most likely to seek compensation for voluntarily surrendering their permits because generally they are gaining least by holding on to permits. If permittees who are active in the fishery participate in this FCRP, their effort may be replaced by reactivation of unused permits, but it is less likely that active permits will be retired because of the criteria established by the FCRP. In any case, the removal of permits, whether latent or active, is going to directly reduce the amount of capacity that, otherwise, can be exercised in the multispecies fishery, particularly as the fishery is rebuilt to more productive levels.

Proposed FCRP

To date, the fishing capacity reduction programs in the Northeast have been designed to compensate permit holders who disable, scrap, scuttle, or transfer their vessels to non-fishing purposes and surrender all their Federal fishing permits. The term ''vessel buyback'' aptly described the programs. The legislation that initiated the current FCRP specifies that the funds ''shall be used to support a voluntary fishing capacity reduction program in the Northeast multispecies fishery that permanently revokes multispecies, limited access fishing permits so as to obtain the maximum sustained reduction in fishing capacity . . . and to prevent the replacement of fishing capacity removed by the program.'' NMFS intends to satisfy this statutory requirement by disbursing funds for the surrender of permits. NMFS has no intention of buying or otherwise directly removing vessels from the fishery.

It is likely that some vessel owners will be willing to surrender their multispecies permit through this FCRP while retaining other limited access permits and participating in other fisheries. The practice of splitting one vessel's suite of limited access permits to allow one or more other vessels to operate in separate limited access fisheries is prohibited by 50 CFR 648.4(a)(1)(i)(L). Because, under this FCRP, the multispecies limited access permit would be surrendered to the Government, and not transferred to another vessel, the vessel's remaining limited access permits would remain valid. In other words, permittees with more than one limited access permit would not be required to surrender all of their permits to participate in the FCRP.

On the other hand, permittees may certainly offer to surrender limited access permits in addition to their multispecies permits. If a multispecies permit holder plans to participate in this FCRP by submitting a bid, he/she may offer to surrender limited access permits in addition to the multispecies permit. Bid ranking is to be based on the baseline characteristics and other factors

related only to the multispecies permit. However, the offer to surrender additional limited access permits may be considered by NMFS as a means of favorably adjusting a bid's rank, should two or more bids be ranked equivalently. NMFS is seeking comments on how offers to surrender additional permits should be valued and ranked in the bid review process.

During the multispecies crisis, many industry members have shifted the focus of their fishing effort to underutilized species. Changes in industry behavior, along with a variety of fishery management measures, has resulted in limited recovery of some of the multispecies stocks. While a vessel's active participation in the multispecies fisheries and/or the expense of re-outfitting the vessel for participation in multispecies fishery may affect the value the owner places on the multispecies permit (and, thus, may affect the bid that is proffered), the present status of the vessel and its recency of participation in the multispecies fishery are not to be qualifiers for participation in this proposed FCRP.

In contrast to the earlier fishing capacity reduction programs, which weighted and ranked bids with respect to the vessel's recent multispecies revenues, a capacity reduction program that is focused on removing latent as well as active permits from the fishery must consider potential fishing capacity of the permitted vessel as a factor in the value of the permit. Each multispecies limited access permit has a vessel baseline associated with it. The baseline consists of four vessel characteristics -- length overall (LOA), gross registered tonnage (GRT), net tonnage (NT), and horsepower (HP) -- and was set in 1994-95 to reflect the status of the vessel at the time the permit category became limited access. The purpose of the baseline is to limit capitalization in the fishery. Permit holders are allowed to upgrade LOA, GRT, and/or NT by up to 10 percent only once for the life of the permit. Horsepower may be upgraded by 20 percent one time during the life of the permit; the HP upgrade need not be contemporaneous with the one-time LOA, GRT, and/NT upgrade. Upgrading may be achieved through vessel alterations or purchase of a replacement vessel that falls within the upgrade constraints.

NMFS is considering two methods for ranking bids under the proposed FCRP, each of which would factor in vessel baseline characteristics. Under one method, NMFS would prepare an estimate of any potential bidders vessel capacity to harvest multispecies, weighted by DAS allocations, using mathematical programming methods. This estimate of harvest capacity would be an inference, based on capacity estimates for similarly configured vessels that are actively working in the fishery. It would consider vessel baseline characteristics (GRT, HP, and LOA) vessel age, crew size, and perhaps other vessel and operational characteristics. Bids would then be scored by dividing the vessel's estimated capacity by the bid, and the highest scoring permits would be selected in descending order. Under this bid ranking alternative, bidders, if they choose, may request that NMFS determine their vessel's capacity prior to submission of the bid.

Another approach to ranking bids would be to develop a formula that has been determined to be highly correlated with capacity. The formula would be based on vessel baseline characteristics, where each parameter is weighted corresponding to its importance with respect to fishing capacity. For example, the formula might use a greater factor by which to multiply HP than it would for GRT because HP is a more important element in determining a vessel's fishing capacity. The formula might not use all of the baseline characteristics. LOA and GRT are highly correlated, thus one might be dropped from the formula for the sake of simplicity without affecting the outcome of the ranking process. The formula could also include a weighting factor for DAS or type of permit. For example, a hook-gear only permit can never be converted to a permit that would allow the use of gill net or trawl gear, and, thus, capacity for the Hook Gear category is more gear limited. Also, permits in the Small Vessel category do not restrict DAS, but do restrict landings of cod, haddock, and yellowtail flounder, so this might have to be balanced in the formula if bids are to be ranked without respect to permit categories. The formula would be announced by publication in the **Federal Register** and bidders would be able to work through the formula using their own baseline characteristics to inform their development of the bids. To rank the bids, the outcome of the formula would be verified by NMFS and divided by the bid, and the higher scoring permits would be selected in descending order.

No matter which method is adopted, vessel baseline will be an important factor in the ranking. From the fall of 1998 through 1999, NMFS initiated the Baseline Audit Program for multispecies and scallop limited access permit categories. NMFS contacted all permittees and asked them to verify and/or correct the permit baseline information in NMFS records. The time window for correcting permit baselines has closed, and NMFS considers its records on permit baselines for multispecies and scallop limited access permit categories to be complete and up to date. The audit program did not include all CPH status permits. Some CPH baselines have been verified, but some have not. If owners of CPH status permits without verified baselines want to participate in the FCRP, NMFS will work with the applicant to establish/verify the vessel baseline. For all other FCRP participants, NMFS intends to use the baseline information as verified or corrected through the Baseline Audit Program.

To represent adequately the full potential capacity of a permit and to improve the consistency of the ranking process, NMFS is considering using the permitted vessel baseline plus the authorized upgrade capacity available to the vessel as the parameters for the capacity evaluations. For example, because a one time upgrade of up to 20 percent of vessel's baseline HP is authorized, a vessel with a 200-HP baseline would be considered for the purposes of this program to have 240 HP, if the owner has not yet exercised the upgrade option. NMFS requests comments from the public on these bid ranking methods and the parameters that should be taken into consideration under each. NMFS requests comments about the upgrade adjustment where the upgrade in LOA of a vessel under a Category C permit (Small Boat Exemption) would render it ineligible for the permit category.

This FCRP is intended to address unutilized fishing capacity in the multispecies fishery by removing limited access permits. In implementing this program, NMFS is tasked ''to obtain the maximum sustained reduction in fishing capacity at the least cost.'' If participation is insufficient in this FCRP to use up all the allocated funds, or if NMFS determines the bids are too high to satisfy the letter and intent of this ''least cost'' provision, then NMFS retains the discretion to reject bids, to close the FCRP, and to restructure it using the remaining funds to meet the statutory goals.

II. Definitions

CPH—a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, and has applied for and received a CPH. Issuance of a valid CPH preserves the eligibility of the applicant to apply for a limited access permit for

a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified in 50 CFR 648.4.

Regulated species—those species that are regulated under the FMP and are limited to cod, haddock, pollock, yellowtail flounder, winter flounder, gray sole, American plaice, windowpane flounder, white hake, and redfish.

Valid multispecies limited access permit--those limited access permits defined in the regulations implementing the FMP, at 50 CFR 651.4(b). To be valid, a permit must be free of all permit sanctions, pending or otherwise, at the time that the application is submitted, and at the time of closing.

III. Request for Comment on the Proposed Program

The purpose of this FCRP is to reduce permanently the maximum fishing capacity within the multispecies fishery through the removal of limited access fishing permits. Like previous fishing capacity reduction programs, this FCRP is a voluntary market based program intended to remove the greatest amount of fishing capacity at the lowest cost. It will allow the applicant to establish a price for offered permits that will be scored in a competitive manner.

Proposed Application Procedures

A. Eligible Applicants

NMFS intends to consider applications to this FCRP only from owners of Federal multispecies permits in limited access categories or CPH status, in accordance with the procedures that will be set forth in a future Federal Register publication. An owner may be an individual who is a citizen or national of the United States; or a citizen of the Northern Mariana Islands; or a corporation, partnership, association (non-profit or otherwise), trust, or other nongovernmental entity; if such an entity is a citizen within the meaning of section 802 of the Shipping Act, 1916, as amended (46 U.S.C. App. 802). Federal Government agencies or employees, including full-time, part-time, and intermittent personnel, and Regional Fisheries Management Council members and employees are not eligible to submit an application.

The multispecies permits that are to be offered for forfeiture must be valid limited access fishing permits, free of any permit sanctions, pending or otherwise, both at time of application and at closing. Any additional limited access fishing permits that are offered to be surrendered must also be free of any permit sanctions, pending or otherwise, both at time of application and at closing. NMFS seeks comments from the public on the participant eligibility for the FCRP.

B. Proposed Application and Review Processes

NMFS intends to give vessel owners 60 days from the date of publication in the **Federal Register** of the final FCRP Notice to submit an FCRP application form. The form may request the following information: Owner, permit number, permit vessel baseline, and, as applicable, vessel name, vessel number, and other relevant information related to vessel configuration and operations. Applicants will be required to submit one signed original application. No facsimile applications will be accepted. Proof of receipt may be obtained by sending an application by certified mail, return receipt requested. The anticipated time required to process applications is 120 days from the closing date of the solicitation.

NMFS intends to send an application form along with a copy of the final **Federal Register** notification announcing the availability of funds under the FCRP to all multispecies limited access fishing permit holders. Applications will also be made available at the NMFS Northeast Regional Office and through the NMFS Northeast Regional Office's website, http://www.wh.whoi.edu/ro/doc/nero.html.

Two methods of ranking bids under the FCRP are discussed above. If the mathematical programming method, in which NMFS develops an estimate of permitted capacity based on input from program participants, is selected, then NMFS, upon request, will provide prospective applicants with a capacity estimate prior to their submission of a bid. This step would not be required. Applicants could simply submit a bid in accordance with published procedures without knowing their vessel's estimated capacity. If the formulaic method is selected, the formula for ranking will be published in the **Federal Register** notice, but, applicants will not be required to calculate their own vessel's capacity.

As applications are received, NMFS will review them for completeness and correctness. Once the 60-day period for applications closes, NMFS intends to rank all timely bids mathematically, as described above. Offers to surrender limited access permits in addition to the multispecies permit will not be used to determine the initial ranking, but will be used distinguish between similarly ranked applicants. That is, offers to surrender non-multispecies limited access permits will be considered by NMFS as tie-breakers when choosing between otherwise equivalent bids.

Determining a bid amount is extremely important, since this will be a key factor in the success of an applicant. If the bid is too high in relation to the permit's baseline capacity, the bid may not be competitive.

The Administrator, Northeast Region, NMFS, will determine which applicants are eligible with competitive bids based on the ranking of the applications. NMFS may initially find more eligible applications than it can fund, but will consider all such applications in order of their ranking. NMFS, based upon established criteria, will reserve the right to reject any or all applications and may solicit additional applications. If additional applications are solicited, or if the program is restructured to encourage participation, all applications submitted previously and not determined to be eligible with competitive bids will be considered rejected. NMFS will notify eligible applicants, whose bids are competitive, in writing. However, eligible applicants are not guaranteed funding by simply having a competitive bid. The bid must be selected and the application will be subject to a thorough investigation to ensure the owners and permits meet the eligibility requirements prior to the disbursal of the awards.

NMFS will provide notice to the permit owners for which an eligibility investigation has been successfully completed. Proprietary information submitted by applicants will only be disclosed to Federal officials who are responsible for the FCRP or otherwise when required by applicable disclosure statutes or by court order.

Representatives from the NMFS Financial Services Division will establish the programmatic terms for the awards. These terms will be binding on the applicants and will control the applicant's post-award rights and obligations. Award terms will include provisions to ensure that applicants do not violate fisheries laws and regulations prior to closing. At their own expense, applicants may choose to retain closing attorneys to represent their interests. The method of payment for this FCRP has yet to be determined. NMFS may use purchase orders, grants, or other means for distributing the funds, depending on the amount of the awards and the time window for disbursal. NMFS will make every effort to ensure awards are paid in a timely manner. Depending on the payment method and the amount, awardees may be required to complete additional

forms to certify they are in good financial standing with the government, their workplace is drug-free and they will limit their governmental lobbying activities. The specific details of these certifications will be published in the **Federal Register**.

NMFS requests comments from the public on the appropriateness of spending the appropriated monies by this proposed application and bid process, the methods to be used for ranking bids, the process for distributing funds and all aspects of this proposed FCRP.

IV. Public Information Meetings

To gain information from the public on how best to implement a fishing capacity reduction program utilizing the $10.0 million appropriation, NMFS is planning the following public meetings, which will start at 7 p.m.:

1. May 8, 2001 - Gloucester, MA - NMFS, 1 Blackburn Drive, 978–281–9136

2. May 9, 2001 - Portland, ME - Holiday Inn By the Bay, 88 Spring Street, 207–775–2311

3. May 10, 2001 - Plymouth, MA - John Carver Inn, 25 Summer Street, 508–746–7100

4. May 10, 2001 - Ellsworth, ME - White Birches Motel, U.S. Route 1, 207–667–3621

5. May 15, 2001 - Portsmouth NH - Comfort Inn, Route 1, 603–433–3338

6. May 15, 2001 - Riverhead, NY - Ramada Inn East, 1830 Route 25, 631–369–2200

7. May 16, 2001 - New Bedford, MA - New Bedford Inn, 500 Hathaway Road, 508–997–1231

8. May 17, 2001 - Toms River, NJ - Holiday Inn, 290 Route 37E, 732–244–4000

9. May 17, 2001 - Narragansett, RI - URI Coastal Institute, Graduate School of Oceanography, Corliss Auditorium, South Ferry Road, 401–874–6110

Additional meetings may be requested by the public and will be announced in the **Federal Register** as they are scheduled.

Authority: 16 U.S.C. 4107

Dated: March 27, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–8048 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075–1075–01; I.D. 011101A]

RIN 0648–AF87

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Tilefish Fishery; Tilefish Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement the Fishery Management Plan for Tilefish (FMP). The FMP was developed by the Mid-Atlantic Fishery Management Council (Council) and would initiate management of golden tilefish (*Lopholatilus chamaeleonticeps*) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The management unit is defined as all golden tilefish in the exclusive economic zone (EEZ) from Maine to the Virginia/North Carolina border. The intended effect of this proposed rule is to stop overfishing and to rebuild the tilefish stock in the Northwest Atlantic Ocean.

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

ADDRESSES: Comments on this proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930–2298. Mark the outside of the envelope: ''Comments on Tilefish Plan Proposed Regulations.'' Comments may also be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

Comments on the collection-of-information requirements that would be established by this proposed rule should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer) and to the Regional Administrator, NMFS, Northeast Region (see previous address).

Copies of the FMP, its Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and the Final Environmental Impact Statement (FEIS) are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978–281–9104, e-mail at Myles.A.Raizin@noaa.gov, fax at (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

Results of the NMFS 1998 stock assessment of tilefish indicate that the tilefish stock is at a low biomass (B) level and is overexploited. Total biomass in 1998 was estimated to be 6.8 million lb (3.1 million kg), which is approximately 35 percent of the biomass that would produce maximum sustainable yield (MSY) or B_{MSY}. The biomass-based fishing mortality rate (F) in 1998 was estimated to be 0.45, which is about double the F that would produce MSY or F_{MSY} where F_{MSY} = 0.22. Total landings of tilefish in 1998 were 2.7 million lb (1.2 million kg), which is significantly less than the estimated MSY of 4.2 million lb (1.9 million kg). Total landings of tilefish in 1999 decreased to 1.2 million lb (0.544 million kg).

To meet the requirements of the Magnuson-Stevens Act, the FMP would establish the following: An overfishing definition; a stock rebuilding strategy; a limited entry program; a commercial quota; permit and reporting requirements for commercial vessels, operators, and dealers; a Tilefish Monitoring Committee; a framework adjustment process; and identification and designation of tilefish essential fish habitat (EFH). A notice of availability of the FMP was published at 66 FR 9814, February 12, 2001, with a 60-day comment period ending on April 13, 2001.

Overfishing Definition

The Magnuson-Stevens Act requires that each fishery management plan specify objective and measurable status determination criteria for identifying when stocks or stock complexes are overfished. The Council would establish status determination criteria based on a maximum F threshold and a minimum B threshold. The maximum F threshold would be specified as F_{MSY}, and the minimum B threshold would be specified as $\frac{1}{2}$ B_{MSY}. The Magnuson-Stevens Act national standard guidelines suggest that risk-averse fishing mortality and biomass targets be specified. For tilefish, the Council

adopted a target fishing mortality rate (F_{target}) equal to the annual F determined from the rebuilding schedule in the FMP. The Council chose a target stock B (B_{target}) equal to B_{MSY} (B_{target} = 18.6 million lb (8,448 mt)).

Stock Rebuilding Schedule

The Council proposes a rebuilding schedule of 10 years, with measures designed to provide a 50-percent probability of attaining B_{MSY} at the end of the 10-year period. Total allowable landings (TAL) for each of the next 10 fishing years would be set at 1.995 million lb (905,172 kg). The rebuilding schedule would reduce F from its 1998 level of 0.45, to 0.29 in the first year, and gradually down to F = 0.11 in the tenth year.

Commercial Vessel Permitting

Limited Entry Categories

The Council identified two groups as having participated in the directed bottom longline fishery for tilefish. One group is composed of primarily New Jersey and Rhode Island vessels that fished for tilefish in the 1970s and 1980s. The other group is composed of a small number of present participants homeported in Montauk, NY. The majority of the New Jersey longline vessels left the fishery in the mid- to late-1980s to fish, for the most part, on swordfish, which was considered a more profitable fishery.

The Council proposes a two-tier full-time category and a part-time category. To qualify for the full-time tier 1 category, a vessel must have landed at least 250,000 lb (113,430 kg) per year for 3 years between 1993 and 1998. To qualify for the full-time tier 2 category, a vessel must have landed at least 30,000 lb (13,612 kg) of tilefish per year for 3 years between 1993 and 1998. To be in the part-time category, a vessel must have landed 10,000 lb (4,537 kg) or more of tilefish in at least 1 year between 1988 and 1993, and 10,000 lb (4,537 kg) or more in at least 1 year between 1994 and 1998, or 28,000 lb (12,704 kg) or more of tilefish in at least 1 year between 1984 and 1993. Data indicate that 4 vessels would qualify for each of the two full-time tiers, and 44 would qualify for the part-time category. Because tier 1 full-time vessels must meet a higher threshold for historical landings, tier 1 vessels would be allocated a larger share of full-time quota than tier 2 vessels. The 4 vessels that would qualify for tier 1 are all homeported in Montauk, NY. A trigger in the FMP would require the Council to amend the limited entry program, which utilizes 1984-98 data, once the stock has been rebuilt to B_{MSY}, to allow the entry of vessels that were historical participants in the fishery.

The Council also proposes to restrict entrants into the limited access fishery to those vessels that fish with longline gear only. This provision was included because data indicate that otter trawls, for the most part, have not directed their fishing efforts on tilefish. The Council also noted that bottom- tending mobile gear could potentially have a detrimental impact on tilefish habitat.

Vessel owners or operators would not be allowed to obtain a tilefish limited access permit for more than one limited access category. In addition, vessel owners or operators who would be issued a limited access permit would not qualify for an incidental catch permit. This provision would prevent limited access vessels from harvesting tilefish once the annual quota for their permit category is attained.

Incidental Catch Category

The Incidental Catch Permit would be an open access permit. A trip limit of 300 lb (138 kg) would be implemented for vessels in this category. Vessels with incidental catch permits would not be restricted to longline gear only.

Commercial Quota Allocation

The quota would be divided among the three limited access categories after 5 percent of the TAL is deducted to reflect landings by vessels issued incidental catch permits. After adjusting for the incidental catch, the remaining TAL would be allocated as follows: Full-time tier 1 category, 66 percent; full-time tier 2 category, 15 percent; and part-time category, 19 percent. If the Administrator, Northeast Region, NMFS (Regional Administrator) determines that the quota for a certain limited access category is expected to be exceeded, the Regional Administrator would close the EEZ to fishing for tilefish by those vessels in that category for the remainder of the fishing year. NMFS would publish a notification of the closure in the **Federal Register**. Any overages that occur in the quota for any limited access category in a given fishing year would be subtracted from the quota for that category in the following fishing year. If incidental catch exceeds 5 percent of the TAL for a given fishing year, the trip limit of 300 lb (138 kg) may be reduced in the following year.

Vessel Operator Permit

Any individual who operates a vessel for the purpose of fishing commercially for tilefish would be required to obtain an operator's permit. Any vessel fishing commercially for tilefish would be required to have on board at least one operator who holds an operator's permit, who would be held accountable for any violations of the fishing regulations by that vessel and those aboard, and who would be subject to a permit sanction for such violations. During the permit sanction period, the individual operator could not work in any capacity aboard a federally permitted fishing vessel. An individual who already holds an operator's permit for another federally managed fishery would not need to apply for another operator permit, since NMFS issues only one operator permit for all federally managed fisheries.

Dealer Permit

Any dealer of tilefish would be required to have a Federal dealer's permit. A dealer of tilefish is defined as a person or firm that receives tilefish harvested in or from the EEZ for a commercial purpose other than transport.

Reporting Requirements for Commercial Vessels and Dealers

Vessel owners with permits issued pursuant to the FMP would be required to submit vessel logbooks within 15 days of the end of the reporting month, in order for NMFS to monitor the fishery. The logbook would require vessels to report everything caught, including bycatch, and would be the same as the logbooks required under other Federal fishery management plans. Owners and operators of vessels issued a limited access permit would be required to report landings under an interactive voice response (IVR) reporting system for vessels.

Dealers with permits issued pursuant to the FMP would be required to submit weekly reports that would include the quantity of tilefish purchased (in pounds) and the name and permit number of the individuals from whom the tilefish was purchased, among other information. Buyers that do not purchase tilefish directly from vessels would not be required to submit reports under this provision. Processors would be required to submit the Annual NMFS Processed Product Report.

Annual Specification Process

The Tilefish Monitoring Committee established under the FMP would be a joint committee made up of representatives of the Council staff, the NMFS Northeast Regional Office, the NMFS Northeast Fisheries Science Center, the states (Maine to Virginia), and the fishing industry. State representatives could include any

individuals designated by their respective states. There would be a maximum of three state representatives, with the New England states having one and the Mid-Atlantic states having up to two. There would also be a non-voting industry advisor who would be appointed by the Council Chairman. The Council's Executive Director or his designee would chair the Committee. The Tilefish Monitoring Committee would review annually the best available data and make recommendations to the Tilefish Committee regarding the specification of quotas and management measures to implement those quotas for the upcoming year. The Council would consider the report of the Tilefish Committee, as well as public input, in determining the quota recommendation for the next fishing year. Upon receiving a quota recommendation from the Council, NMFS would publish a proposed rule in the **Federal Register** soliciting public comment on the Council's recommendations. NMFS, after receiving public comment, could specify quotas other than those recommended by the Council, provided that the quotas are consistent with the objectives of the FMP and that the reason for the change in the Council's recommended quota is clearly stated.

Framework Adjustment Process

In addition to the annual specification adjustment, the Council could add or modify management measures through a framework adjustment process at any time during the year. This adjustment procedure would allow the Council to add or modify management measures through a streamlined public review process. The following specific management measures could be implemented or adjusted at any time through the framework process: (1) Minimum fish size, (2) minimum hook size, (3) closed seasons, (4) closed areas, (5) gear restrictions or prohibitions, (6) permitting restrictions, (7) gear limits, (8) trip limits, (9) overfishing definition and related thresholds and targets, (10) annual specification quota setting process, (11) FMP Monitoring Committee composition and process, (12) description and identification of EFH, (13) fishing gear management measures that affect EFH, (14) habitat areas of particular concern, and (15) set-aside quotas for scientific research.

The adjustment procedure would involve the following steps. If the Council determines that an adjustment to management measures is necessary to meet the goals and objectives of the FMP, it would recommend, develop, and analyze appropriate management actions over the span of at least two Council meetings. The Council would provide the public with advance notice of the availability of the recommendation, the appropriate justifications and economic and biological analyses, and an opportunity to comment on the proposed adjustments before and during the second Council meeting on that framework action. After developing management actions and receiving public comment, the Council would submit the recommendation to the Regional Administrator. The recommendation would include supporting rationale, an analysis of impacts, and a recommendation on whether to publish the management measures as a final rule. If, after reviewing the Council's recommendation and supporting information, the Regional Administrator concurs with the Council's recommended management measures and determines that the recommended management measures may be published as a final rule, the action would be published in the **Federal Register** as a final rule. If the Regional Administrator concurs with the Council's recommendation, but determines that the recommended measures should be published first as a proposed rule to obtain additional public comment, the action will be published as a proposed rule in the **Federal Register**. If, after additional public comment, the Regional Administrator concurs with the Council's recommendation, the action will be published as a final rule in the **Federal Register**. If the Regional Administrator does not concur with the Council's recommendation, the Council will be notified, in writing, of the reason for non-concurrence.

Identification and Description of Tilefish EFH

Tilefish EFH would be defined as the water column and substrate between the 250 and 1,200 ft (105 to 366 m) isobath, from the U.S./Canadian boundary to the Virginia/North Carolina boundary. Additionally, the area included as EFH in NMFS statistical areas 537 and 616, as defined at section 2.2.2.2.1 and shown in Figures 4 and 5 of the FMP, would be identified as Habitat Areas of Particular Concern (HAPC), since greater than 90 percent of the recent tilefish landings come from these areas.

Other Measures

The Regional Administrator would be authorized to place sea samplers (observers) aboard vessels if it is determined that a voluntary sea sampling system is not producing a representative sample from the tilefish fishery. Fishing vessels would be encouraged to leave an area following an interaction with an endangered species in order to minimize the probability of additional encounters.

The Regional Administrator, in consultation with the Council Executive Director, could exempt any person or vessel from the requirements of the FMP in order to conduct experimental fishing beneficial to the management of the tilefish resource or fishery. The Regional Administrator could not grant such an exemption unless it is determined that the purpose, design, and administration of the exemption are consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law. The exemption could not have a detrimental effect on the tilefish resource or fishery, cause any quota to be exceeded, or create significant enforcement problems.

Classification

At this time, NMFS has not determined that the FMP that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of this analysis follows:

A description of the reasons why action by the agency is being considered and the objectives and legal basis of the proposed rule are explained in the preamble to this rule and in the IRFA and are not repeated here. All of the affected businesses (fishing vessels and dealers) qualify as small entities under the standards described in NMFS guidelines.

Economic Impacts on Dealers and Processors

In 1998, 83 Federal seafood dealers handled tilefish. Seventy-three of these derived less than 5 percent of their revenues from tilefish, and only 5 depended on tilefish for more than 20 percent of their revenues; one of them, however, derived 100 percent of his revenues from tilefish. In terms of value, 21 dealers reported annual revenue from tilefish of over $10,000, 7 reported revenue over $50,000, and 1 reported revenue of between 1 and 5 million dollars.

Fewer than three processors reported processing tilefish for the Northeast and

South Atlantic combined in the 1998 NMFS Processed Products Survey. As such, all data for these processors are confidential. All the firms reporting were small entities, and tilefish constitute a very small percentage of their total volume and value.

Economic Impacts on Vessels

In 1998, 215 different vessels landed tilefish along the Atlantic coast. Under the FMP, any vessel fishing commercially for tilefish would have to obtain a Federal vessel tilefish permit. Based on 1998 data, the percentage of the limited access, incidental, and total vessels that would incur revenue losses of 5 percent or greater under the proposed rule was 10.0 percent, 2.5 percent, and 4.0 percent, respectively. However, an analysis of vessels that would qualify for limited access under the proposed rule reveals that 100 percent of the full-time tier 1 category vessels, 25 percent of the full-time tier 2 category vessels, and none of the part-time category vessels would incur revenue reductions of 5 percent or greater. One vessel that would not qualify for the limited access program but could obtain an incidental category permit is projected to incur revenue losses of 50 percent or greater. This vessel had substantial landings of tilefish in 1998 and very few landings of other species. Since this vessel would be in the incidental category, it would be limited to landing 300 lb (138 kg) of tilefish per trip.

Economic Impacts Resulting From Reporting and Recordkeeping Requirements

It is estimated that, in 1998, 215 different vessels landed tilefish along the Atlantic coast. Under the proposed rule, any vessel fishing commercially for tilefish would be required to obtain a Federal vessel tilefish permit. Based on the period of January 1, 1988, to June 15, 1993, 312 vessels landed at least 1 lb (2.20 kg) of tilefish. Assuming that all these vessels would be eligible for a tilefish permit and that they would all apply, there would be 312 new permit applications as a result of this proposed rule. Total initial costs for vessel permits would be $106 for public burden ($0.34 per vessel x 312 vessels). For dealer permits, there would be a total cost of $3 ($0.34 per vessel x 10). It is estimated that 85 of the vessels that would apply for initial vessel permits do not presently possess a Northeast fisheries permit; therefore, for operator permits, there would be a total cost of $29 ($0.34 per operator x 85 vessels) and $850 ($10.00 per vessel x 85 vessels) for obtaining and displaying vessel identification numbers. About 5 percent of the vessels (5 vessels) applying for the initial vessel permit may also incur additional costs associated with confirmation of permit history, replacement and upgrades, and permit vessel appeals, which are estimated to total $6 ($0.34 per vessel x 5 vessels x 3 responses). Eighty-five vessels currently do not report under the system in place for Northeast permit holders; therefore, total costs of submitting vessel logbooks would be $419 annually ($4.93 per vessel x 85 vessels). Total costs of submitting dealer reports would be $177 ($17.70 per dealer x 10 dealers).

There are no large businesses involved in the industry; therefore, there are no disproportionate effects on small entities. There are no disproportionate costs of compliance among the affected small entities. The proposed action does not create regulations that duplicate, overlap, or conflict with any state regulation or other Federal law.

A copy of this analysis is available from the Council (see **ADDRESSES**).

The Council prepared a final environmental impact statement (FEIS) for this FMP. The FEIS was filed with the Environmental Protection Agency (EPA) March 28, 2001. The EPA will publish a notice of availability of the FEIS in the **Federal Register**. A copy of the FEIS may be obtained from the Council (see **ADDRESSES**).

This proposed rule has been determined to be not significant for the purposes of E.O. 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 PRA, unless that collection of information displays a currently valid OMB control number.

This rule contains collection-of-information requirements subject to review and approval by Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule will also subject persons to requirements not contained in the rule itself. For example, persons required to obtain vessel permits under this rule will automatically be subject to logbook reporting requirements. Both types of requirements have been submitted to OMB for approval.

Public reporting burden for the collections of information contained in this rule are as follows: 1 hour for a vessel operator permit application, 30 minutes for a new vessel permit application, 15 minutes for a vessel permit renewal application, 3 hours for a vessel permit appeal, 3 hours for a vessel confirmation of permit history application, 4 minutes per vessel report using the IVR system, 4 minutes per dealer report using the IVR system, 3 hours for a vessel replacement or upgrade application, and 5 minutes for a dealer permit application. Reporting burden for the information requirements that are proposed in the FMP and are not contained in this rule, but will be imposed as a consequence of the rule, is estimated to be: 5 minutes per response for a vessel logbook, 2 minutes per dealer report using NOAA Form 88-30, 45 minutes for vessel identification, and 30 minutes for completing the Processed Products Report. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and Recordkeeping Requirements.

Dated: March 28, 2001.

Clarence Pautzke

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be 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. In § 648.1, the first sentence of paragraph (a) is revised to read as follows:

§ 648.1 Purpose and scope.

(a) This part implements the fishery management plans (FMPs) for the

Atlantic mackerel, squid, and butterfish fisheries (Atlantic Mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Scallop FMP); the Atlantic surf clam and ocean quahog fisheries (Atlantic Surf Clam and Ocean Quahog FMP); the Northeast multispecies fishery (Multispecies FMP); the monkfish fishery (Monkfish FMP); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); the Atlantic bluefish fishery (Atlantic Bluefish FMP); the spiny dogfish fishery (Spiny Dogfish FMP); the Atlantic herring fishery (Atlantic Herring FMP); and the tilefish fishery (Tilefish FMP). * * *

* * * * *

3. In § 648.2, the definition for ''Council'' is revised and a new definition for ''Tilefish FMP Monitoring Committee'' is added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Council means the New England Fishery Management Council (NEFMC) for the Atlantic herring, Atlantic sea scallop, monkfish, and NE multispecies fisheries; or the Mid-Atlantic Fishery Management Council (MAFMC) for the Atlantic mackerel, squid, and butterfish; Atlantic surf clam and ocean quahog; summer flounder, scup, and black sea bass; spiny dogfish; Atlantic bluefish; and tilefish fisheries.

* * * * *

Tilefish FMP Monitoring Committee means a committee made up of staff representatives of the MAFMC, the NMFS Northeast Regional Office, the Northeast Fisheries Science Center, up to three state representatives (the New England states having one representative and the Mid-Atlantic states having a maximum of two representatives) and one non-voting industry member. The MAFMC Executive Director or his designee chairs the committee.

* * * * *

4. In § 648.4, paragraph (a)(12) is added and paragraph (b) are revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(12) *Tilefish vessels*. Any vessel of the United States must have been issued and carry on board a valid tilefish vessel permit to fish for, possesses, or land tilefish in or from the EEZ.

(i) *Limited access tilefish permits*—(A) *Eligibility*. A vessel may be issued a limited access tilefish permit if it meets any of the following limited access tilefish permit criteria:

(*1*) *Full-time tier 1 category*. The vessel landed at least 250,000 lb (113,430 kg) of tilefish per year for any 3 years between 1993 and 1998, at least 1 lb (2.20 kg) of which was landed prior to June 15, 1993.

(*2*) *Full-time tier 2 category*. The vessel landed at least 30,000 lb (13,612 kg) per year for any of 3 years between 1993 and 1998, at least 1 lb (2.20 kg) of which was landed prior to June 15, 1993.

(*3*) *Part-time category*. The vessel landed 10,000 lb (4,537 kg) of tilefish in any 1 year between 1988 and 1993 and 10,000 lb (4,537 kg) in any 1 year between 1994 and 1998, or landed 28,000 lb (12,904 kg) of tilefish in any 1 year between 1984 and 1993.

(ii)*Limited access permit restrictions*—(A)*Categories*—(*1*) A vessel may be issued a limited access tilefish permit for only one category during a fishing year.

(*2*) A vessel issued a limited access permit may not be issued an incidental catch permit during a fishing year.

(B) *Application/renewal restriction*—(*1*)*Initial application*. A vessel owner must apply for an initial limited access tilefish permit before [*date 365 days from date of publication of the final rule*].

(*2*) For fishing years beyond the initial application year, the provisions of paragraph (a)(1)(i)(B) of this section apply.

(C) *Qualification restrictions*. The provisions of paragraph (a)(1)(i)(C) of this section apply.

(D) *Change in ownership*. The provisions of paragraph (a)(1)(i)(D) of this section apply.

(E) *Replacement vessels*. The provisions of paragraph (a)(1)(i)(E) of this section apply.

(F) *Upgraded vessel*. The provisions of paragraph (a)(1)(i)(F) of this section apply.

(G) *Consolidation restriction*. The provisions of paragraph (a)(1)(i)(G) of this section apply.

(H) *Vessel baseline specifications*. The provisions of paragraph (a)(1)(i)(H) of this section apply.

(I) [Reserved]

(J) *Confirmation of permit history*. The provisions of paragraph (a)(1)(i)(J) of this section apply.

(K) *Abandonment or voluntary relinquishment of permits*. The provisions of paragraph (a)(1)(i)(K) of this section apply.

(L) *Restriction on permit splitting*. The provisions of paragraph (a)(1)(i)(L) of this section apply.

(M) *Appeal of denial of a permit*. (*1*) Any applicant denied a tilefish limited access permit may appeal to the Regional Administrator within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Administrator erred in concluding that the vessel did not meet the criteria in paragraphs (a)(12)(i)(A)(*1*),(*2*), or (*3*) of this section. The appeal must set forth the basis for the applicant's belief that the decision of the Regional Administrator was made in error.

(*2*) The appeal may be presented, at the option of the applicant, at a hearing before an officer appointed by the Regional Administrator. The hearing officer shall make a recommendation to the Regional Administrator. The decision on the appeal by the Regional Administrator is the final decision of the Department of Commerce.

(*3*) *Status of vessels pending appeal*. (*i*) A vessel denied a limited access tilefish permit may fish, provided that the denial has been appealed, the appeal is pending, and the vessel has on board a letter from the Regional Administrator authorizing the vessel to fish. The Regional Administrator will issue such a letter for the pendency of any appeal. The decision on the appeal is the final administrative action of the Department of Commerce. The letter of authorization must be carried on board the vessel. If the appeal is finally denied, the Regional Administrator shall send a notice of final denial to the vessel owner; the authorizing letter shall become invalid 5 days after receipt of the notice of denial.

(*ii*) *Tilefish incidental catch permit*. Any vessel of the United States that fishes for, possesses, or lands tilefish in or from the EEZ that has not been issued a limited access tilefish permit must have been issued and carry onboard a valid tilefish incidental catch permit for which there are no eligibility criteria. Such vessel is subject to the restrictions in § 648.252.

(b) *Permit conditions*. Any person who applies for a fishing permit under this section must agree, as a condition of the permit, that the vessel and the vessel's fishing activity, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ; and without regard to where such fish or gear are possessed, taken or landed), are subject to all requirements of this part, unless exempted from such requirements under this part. All such fishing activities, catch, and gear will remain subject to all applicable state requirements. Except as otherwise provided in this part, if a requirement of this part and a management measure required by a state or local law differ,

any vessel owner permitted to fish in the EEZ for any species managed under this part must comply with the more restrictive requirement. Owners and operators of vessels fishing under the terms of a summer flounder moratorium, scup moratorium, or black sea bass moratorium or a spiny dogfish, or bluefish commercial vessel permit must also agree not to land summer flounder, scup, black sea bass, spiny dogfish, or bluefish, respectively, in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for that state or period has been harvested and that no commercial quota is available for the respective species. A state not receiving an allocation of summer flounder, scup, black sea bass, or bluefish, either directly or through a coastwide allocation, is deemed to have no commercial quota available. Owners and operators of vessels fishing under the terms of the tilefish limited access permit must agree not to land tilefish after NMFS has published a notification in the **Federal Register** stating that the quota for the tilefish limited access category under which a vessel is fishing, has been harvested. Owners or operators fishing for surf clams and ocean quahogs within waters under the jurisdiction of any state that requires cage tags are not subject to any conflicting Federal minimum size or tagging requirements. If a surf clam and ocean quahog requirement of this part differs from a surf clam and ocean quahog management measure required by a state that does not require cage tagging, any vessel owners or operators permitted to fish in the EEZ for surf clams and ocean quahogs must comply with the more restrictive requirement while fishing in state waters. However, surrender of a surf clam and ocean quahog vessel permit by the owner by certified mail addressed to the Regional Administrator allows an individual to comply with the less restrictive state minimum size requirement, as long as fishing is conducted exclusively within state waters. If the commercial black sea bass quota for a period is harvested and the coast is closed to the possession of black sea bass north of 35°15.3' N. lat., any vessel owners who hold valid commercial permits for both the black sea bass and the NMFS Southeast Region Snapper-Grouper fisheries may surrender their moratorium black sea bass permit by certified mail addressed to the Regional Administrator and fish pursuant to their snapper-grouper permit, as long as fishing is conducted exclusively in waters, and landings are made, south of 35°15.3' N. lat. A moratorium permit for the black sea bass fishery that is voluntarily relinquished or surrendered will be reissued upon receipt of the vessel owner's written request after a minimum period of 6 months from the date of cancellation.

* * * * *

5. In § 648.5, the first sentence in paragraph (a) is revised to read as follows:

§ 648.5 Operator permits.

(a) *General*. Any operator of a vessel fishing for or possessing Atlantic sea scallops in excess of 40 lb (18.1 kg), NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, or tilefish harvested in or from the EEZ, or issued a permit, including carrier and processing permits, for these species under this part, must have been issued under this section, and carry on board, a valid operator permit. * * *

* * * * *

6. In § 648.6, paragraph (a) is revised to read as follows:

§ 648.6 Dealer/processor permits.

(a) *General*. (1) All dealers of NE multispecies, monkfish, Atlantic herring, Atlantic sea scallop, spiny dogfish, summer flounder, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, bluefish, tilefish, and black sea bass; Atlantic surf clam and ocean quahog processors; and Atlantic herring processors or dealers, as described in § 648.2; must have been issued under this section, and have in their possession, a valid permit or permits for these species. A person who meets the requirements of both the dealer and processor definitions of any of the aforementioned species' fishery regulations may need to obtain both a dealer and a processor permit, consistent with the requirements of that particular species' fishery regulations. Persons aboard vessels receiving small-mesh multispecies and/or Atlantic herring at sea for their own use exclusively as bait are deemed not to be dealers, and are not required to possess a valid dealer permit under this section, for purposes of receiving such small-mesh multispecies and/or Atlantic herring, provided the vessel complies with the provisions of § 648.13.

(2) [Reserved]

* * * * *

7. In 648.7, paragraph (a)(2)(i) is revised and paragraph (b)(1)(iv) is added to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

(a) * * *

(2) *Weekly IVR system reports*. (i) Federally permitted dealers, other than Atlantic herring and tilefish dealers, purchasing quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section must submit, within the time period specified in paragraph (f) of this section, the following information, and any other information required by the Regional Administrator, to the Regional Administrator or to an official designee, via the IVR system established by the Regional Administrator: Dealer permit number; dealer code; pounds purchased, by species, other than Atlantic herring; reporting week in which species were purchased; and state of landing for each species purchased. If no purchases of quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section were made during the week, a report so stating must be submitted through the IVR system in accordance with paragraph (f) of this section.

(b) * * *

(1) * * *

(iv) The owner or operator of a vessel described here must report landings of tilefish each week to an IVR system. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, reporting week in which species are caught, and pounds landed. Weekly tilefish landings must be submitted via the IVR system by midnight, Eastern time, each Tuesday for the previous week. This report does not exempt the owner or operator from other applicable reporting requirements of § 648.7.

(A) An owner or operator of any vessel issued a limited access permit for tilefish must submit a tilefish landings report via the IVR system for that week as required by the Regional Administrator.

(B) [Reserved]

* * * * *

8. In § 648.11, the first sentence of paragraph (a) and paragraph (e) are revised to read as follows:

§ 648.11 At-sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel holding a permit for Atlantic sea scallops, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish; or a moratorium permit for summer

flounder; to carry a NMFS-approved sea sampler/observer.* * *

* * * * *

(e) The owner or operator of a vessel issued a summer flounder moratorium permit, a scup moratorium permit, a black sea bass moratorium permit, a bluefish permit, a spiny dogfish permit, an Atlantic herring permit, or a tilefish permit, if requested by the sea sampler/observer, also must:

(1) Notify the sea sampler/observer of any sea turtles, marine mammals, summer flounder, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, or other specimens taken by the vessel.

(2) Provide the sea sampler/observer with sea turtles, marine mammals, summer flounder, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, or other specimens taken by the vessel.

* * * * *

9. In § 648.12, the introductory text is revised to read as follows:

§ 648.12 Experimental fishing.

The Regional Administrator may exempt any person or vessel from the requirements of subparts A (General Provisions), B (Atlantic mackerel, squid, and butterfish), D (sea scallop), E (surf clam and ocean quahog), F (NE multispecies and monkfish), G (summer flounder), H (scup), I (black sea bass), J (bluefish), K (Atlantic herring), L (spiny dogfish), and M (tilefish) of this part for the conduct of experimental fishing beneficial to the management of the resources or fishery managed under that subpart. The Regional Administrator shall consult with the Executive Director of the MAFMC regarding such exemptions for the Atlantic mackerel, squid, butterfish, summer flounder, scup, black sea bass, spiny dogfish, bluefish, and tilefish fisheries.

* * * * *

10. In § 648.14, paragraphs (x)(11) and (cc) are added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(x) * * *

(11)*Tilefish*. All tilefish retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested from the EEZ, unless the preponderance of all submitted evidence demonstrates that such tilefish were harvested by a vessel fishing exclusively in state waters.

* * * * *

(cc) In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for, possess, retain or land tilefish, unless:

(i) The tilefish are being fished for or were harvested in or from the EEZ by a vessel holding a valid tilefish permit under this part, and the operator on board such vessel has been issued an operator permit that is on board the vessel; or

(ii) The tilefish were harvested by a vessel not issued a tilefish permit that was fishing exclusively in state waters; or

(iii) The tilefish were harvested in or from the EEZ by a vessel engaged in recreational fishing.

(2) Operate, or act as an operator of, a vessel with a tilefish permit, or a vessel fishing for or possessing tilefish in or from the EEZ, unless the operator has been issued, and is in possession of, a valid operator permit.

(3) Purchase, possess, receive, or attempt to purchase, possess, or receive, as a dealer, or in the capacity of a dealer, tilefish that were harvested in or from the EEZ, without having been issued, and in possession of, a valid tilefish dealer permit.

(4) Purchase, possess, receive, or attempt to purchase, possess, or receive, as a processor, or in the capacity of a processor, tilefish from a fishing vessel with a tilefish permit or from a dealer with a tilefish dealer permit, without having been issued, and in possession of, a valid tilefish processor permit.

(5) Sell, barter, trade, or otherwise transfer, or attempt to sell, barter, trade, or otherwise transfer, for a commercial purpose, any tilefish, unless the vessel has been issued a tilefish permit, or unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in state waters.

(6) Purchase, possess, or receive, for a commercial purpose, or attempt to purchase, possess or receive, for a commercial purpose, tilefish caught by a vessel without a tilefish permit, unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in state waters.

(7) Fish for tilefish, with any gear other than longline, while in possession of a limited access permit.

(8) Possess tilefish harvested in or from the EEZ in excess of the trip limit, pursuant to § 648.252, unless issued a limited access permit.

(9) Land tilefish harvested in or from the EEZ for sale after the effective date of the notification in the **Federal Register**, pursuant to § 648.251, which notifies permit holders in a limited access category that the quota for that category is no longer available.

* * * * *

11. In 50 CFR part 648, Subpart M is added to read as follows:

Subpart M—Management Measures for the Tilefish Fishery

Sec.
§ 648.250 Catch quotas and other restrictions.
§ 648.251 Closures.
§ 648.252 Tilefish trip limits.
§ 648.253 Framework specifications.
§ 648.254 Gear restrictions.

Subpart M—Management Measures for the Tilefish Fishery

§ 648.250 Catch quotas and other restrictions.

The fishing year is the 12-month period beginning with [*day and month of the effective date of the final rule implementing the FMP*].

(a) *Total allowable landings (TAL)*. The TAL for each fishing year will be 1.995 million lb (905,172 kg) unless modified pursuant to paragraph (d) of this section.

(b) *Allocation by category*. For each fishing year, the TAL will first be reduced by 5 percent to adjust for the incidental catch. The remaining 95 percent of the TAL will be allocated as follows: Full-time tier category 1, 66 percent; Full-time tier category 2, 15 percent; and Part-time, 19 percent.

(c) *Adjustments to the quota*. Any overages that occur in the quota for any limited access category in a given fishing year will be subtracted from the quota for that category in the following fishing year. If incidental harvest exceeds 5 percent of the TAL for a given fishing year, the trip limit of 300 lb (138 kg) for the incidental category may be reduced in the following year. If an adjustment is required, a notification of adjustment of the quota will be published in the **Federal Register**.

(d) *Annual specification process*. The Tilefish FMP Monitoring Committee (Monitoring Committee) will meet after the completion of each stock assessment or at the request of the Council Chairman. The Monitoring Committee shall review tilefish landings information and any other relevant available data to determine if the annual quota requires modification to respond to any changes to the stock's biological reference points or to ensure that the rebuilding schedule is maintained. The Monitoring Committee will consider whether any additional management measures or revisions to existing measures are necessary to ensure that the TAL will not be exceeded. Based on that review, the Monitoring Committee will provide a recommendation to the Tilefish Committee of the Council.

Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the Council the appropriate quota and management measures for the next fishing year. The Council shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the fishing year, the appropriate TAL for the next fishing year and any management measures to assure that the TAL will not be exceeded. The Council's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations, and after such review, NMFS will publish a proposed rule in the **Federal Register** specifying the annual TAL. After considering public comments, NMFS will publish a final rule in the **Federal Register** to implement a TAL and any other measures. The previous year's specifications will remain effective unless revised through the specification process. NMFS will issue notification in the **Federal Register** if the previous year's specifications will not be changed.

§ 648.251 Closures.

(a) *EEZ closure*. If the Regional Administrator determines that the quota for a certain limited access category will be exceeded, the Regional Administrator will close the EEZ to fishing for tilefish by those vessels in that category for the remainder of the fishing year and publish notification in the **Federal Register**.

(b) [Reserved]

§ 648.252 Tilefish trip limits.

Any U.S. fishing vessel fishing under a tilefish incidental catch category permit is prohibited from possessing more than 300 lb (138 kg) of tilefish per trip.

§ 648.253 Framework specifications.

(a) *Within season management action*. The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Tilefish FMP. The following specific management measures may be implemented or adjusted at any time through the framework process:

(1) Minimum fish size,

(2) Minimum hook size,

(3) Closed seasons,

(4) Closed areas,

(5) Gear restrictions or prohibitions,

(6) Germitting restrictions,

(7) Gear limits,

(8) Trip limits,

(9) Overfishing definition and related thresholds and targets,

(10) Annual specification quota setting process,

(11) Tilefish FMP Monitoring Committee composition and process,

(12) Description and identification of EFH,

(13) Fishing gear management measures that impact EFH,

(14) Habitat areas of particular concern, and

(15) Set-aside quotas for scientific research.

(1) *Adjustment process*. If the Council determines that an adjustment to management measures is necessary to meet the goals and objectives of the FMP, it will recommend, develop, and analyze appropriate management actions over the span of at least two Council meetings. The Council will provide the public with advance notice of the availability of the recommendation, appropriate justifications and economic and biological analyses, and opportunity to comment on the proposed adjustments prior to and at the second Council meeting on that framework action. After developing management actions and receiving public comment, the Council will submit the recommendation to the Regional Administrator; the recommendation must include supporting rationale, an analysis of impacts, and a recommendation on whether to publish the management measures as a final rule.

(2) *Council recommendation*. After developing management actions and receiving public testimony, the Council will make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, it must consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) *Regional Administrator action*. If the Council's recommendation includes adjustments or additions to management measures and, after reviewing the Council's recommendation and supporting information:

(i) If the Regional Administrator concurs with the Council's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (b)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If the Regional Administrator concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if the Regional Administrator concurs with the Council's recommendation, the measures will be issued as a final rule in the **Federal Register**.

(iii) If the Regional Administrator does not concur with the Council's recommendation, the Council will be notified in writing of the reasons for the non-concurrence.

(b) *Emergency action*. Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

§ 648.254 Gear restrictions.

A vessel issued a limited access tilefish permit issued under § 648.4(a)(12)(i) cannot fish for tilefish with any gear other than longline.

[FR Doc. 01–8163 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010108–006–1006–01; I.D.; 120700A]

RIN 0648–AO97

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Advanced Notice of Proposed Rulemaking including a Control Date

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

ACTION: Advanced notice of proposed rulemaking regarding fixed-gear sablefish harvest; notice of control date; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) has recommended to the Secretary of Commerce (Secretary), management measures which would allow permit owners to register multiple limited entry fixed-gear permits with sablefish endorsements to a single vessel (permit stacking), beginning with the 2001 regular nontrawl sablefish fishery.

As part of a permit stacking program, the Council proposes to restrict persons from owning more than three limited entry permits with sablefish endorsements; to allow limited entry permits with sablefish endorsements to be owned only by individuals, not corporations or other business entities; and to require permit owners to be on board a vessel to which a sablefish permit is registered when it is participating in the fishery. However, owners of permits as of November 1,2000, are proposed to be exempt from these restrictions. Persons holding more than three permits on November 1, 2000, would not be allowed to accumulate more permits, but neither would they be required to sell their excess permits.

To inform the industry that it was proposing permit restrictions applicable to permits acquired after November 1, 2000, the Council recommended that NMFS announce November 1, 2000, as a control date. This control date is intended to provide notification of the Council's intent and to discourage: persons from accumulating permits above the limit; individual permit owners from incorporating or becoming partnerships; and increases in absentee permit ownership, before the permit stacking regulations become effective.

DATES: Comments may be submitted in writing by May 3, 2001.

ADDRESSES: Comments may be mailed to Jim Lone, Chairman, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: The Pacific Fishery Management Council at 503–326–6352; or William Robinson at 206–526–6140; or Svein Fougner at 562–980–4000.

SUPPLEMENTARY INFORMATION: The U.S. groundfish fisheries off the Washington, Oregon, and California coasts are managed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801–1883) and the Pacific Coast Groundfish Fishery Management Plan (FMP). Regulations implementing the FMP appear at 50 CFR part 660 subpart G.

Overcapitalization in the groundfish fishery has undermined the effectiveness of some existing management measures. Reducing capacity in the fishery is necessary to reduce overfishing, minimize bycatch and improve the economic outlook for the West Coast fishing industry. The recommended management scheme is designed to reduce capacity in the limited entry fixed-gear sablefish portion of the groundfish fishery.

The primary limited entry fixed-gear sablefish fishery includes the regular season during which most of the limited entry fixed-gear sablefish harvest is taken, and the mop-up fishery. Each fixed-gear permit with a sablefish endorsement is assigned to one of three tiers for the regular nontrawl limited entry sablefish season. The tier that a permit is assigned to determines the amount of catch that may landed from the vessel to which it is registered. If multiple permits are registered to a single vessel, fishers would be allowed to harvest the full amount allocated to each of the permits registered to the vessel.

Fixed-gear permit stacking was recommended as a capacity reduction measure in the Groundfish Strategic Plan which the Council adopted at its September 2000 meeting. The Council distributed preliminary analysis on permit stacking to the public at the Council's September 2000 meeting and encouraged the public to provide comments. A more detailed regulatory analysis was available to the public and the Council prior to the Council's November 2000 meeting. The Council reviewed permit stacking and held a public hearing during the Council's November meeting. Following public testimony and discussion, the Council adopted a permit stacking program with the intention of having a program in place for the 2001 regular nontrawl sablefish fishery.

As part of the permit stacking program, the Council proposes to restrict persons from owning more than three limited entry permits with sablefish endorsements; to allow limited entry permits with sablefish endorsements to be owned only by individuals, not corporations or other business entities; and to require permit owners to be on board a vessel to which a sablefish permit is registered when it is fishing. However, owners of permits as of November 1, 2000, are proposed to be exempt from these restrictions.

To inform the industry that it proposing future ownership restrictions, applicable to permits assigned after November 1, 2000, the Council recommended that NMFS announce a control date of November 1, 2000. This control date is intended to provide notification of the Council's intent, discourage persons from accumulating permits above the limit; and individual permit owners from incorporating or becoming partnerships. increases in absentee permit ownership, before the permit stacking regulations become effective. The Council also proposes to restrict at-sea processing of sablefish except for vessels that can demonstrate fixed-gear landings of at least 2,000 lb (907 kg) of frozen sablefish from Council-managed fisheries in 1998, 1999, or 2000.

To limit the concentration of permit ownership, and thus harvest privileges, in the fishery, no person would be allowed to accumulate more than three limited entry fixed-gear permits with sablefish endorsements unless that person owned them on November 1, 2000. Persons holding more than three limited entry fixed-gear permits with sablefish endorsements on November 1, 2000, would not be allowed to accumulate more permits, but neither would they be required to sell their excess permits.

Corporations and partnerships owning limited entry fixed-gear permits with sablefish endorsements on November 1, 2000, could continue to own the permits as corporations and partnerships. However, corporations or partnership that acquire permits after November 1, 2000, would likely be restricted from participating in the fishery when a permit stacking program is implemented. Exemptions for a particular corporation or partnership that owned permits on November 1, 2000, would cease with a change in the identity of that corporation or partnership.

Owners of limited entry fixed-gear permits with sablefish endorsements on November 1, 2000, would be allowed to operate without the owner of the permit on board the vessel during the regular nontrawl sablefish fishery. However, individuals acquiring permits after November 1, 2000, would be required to have the permit owner on board the vessel while participating in the fishery when a permit stacking program is implemented.

The Council will soon submit the program and the supporting documents to the Secretary for review, approval, and implementation under the Magnuson-Stevens Act. Once the Secretary has received the documents from the Council, he will publish a notice of availability of an FMP amendment and proposed regulations in the **Federal Register**, and seek public comment, before deciding whether to approve or disapprove the program.

This advanced notice of proposed rulemaking has been determined to be not significant for the purpose of Executive Order 12866.

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

Dated: March 28, 2001.

Clarence Pautzke,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–8167 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 64
Tuesday, April 3, 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

Willamette Provincial Advisory Committee (PAC); Meeting

AGENCY: Forest Service.

ACTION: Notice of meeting.

SUMMARY: The Willamette Province Advisory Committee (PAC) will meet on Thursday, April 19, 2001. The meeting is scheduled to begin at 9:00 a.m., and will conclude at approximately 2:00 p.m. The meeting will be held at the Salem Office of the Bureau of Land Management; 1717 Fabry Road SE; Salem, Oregon; (503) 375–5646.

The tentative agenda includes: (1) Survey and Manage Amendment Overview, (2) Watershed Restoration Priorities and Planning, (3) Public Forum, (4) PAC Subcommittee Opportunities, (5) REO Update and Information sharing.

The Public Forum is tentatively scheduled to begin at 10:30 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the April 19 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Willamette National Forest; 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: March 28, 2001.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 01–8093 Filed 4–2–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems; Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on April 18 & 19, 2001, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Pennsylvania Avenue and Constitution Avenue, NW., Washington, DC. The ISTAC advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

April 19

Public Session

1. Opening remarks and introductions.
2. Comments or presentations from the public.
3. Discussion on civil cellular radio-communications systems.
4. Discussion on semiconductor manufacturing equipment.

April 18—19:

Closed Session

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

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

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 10, 1999, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of this Committee and on any Subcommittees thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination of close meetings or portions of meetings of this Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information or copies of the minutes call Lee Ann Carpenter, 202–482–2583.

Dated: March 28, 2001.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 01–8118 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819 & C–489–806]

Certain Pasta From Italy and Turkey; Notice of Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Reviews

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

ACTION: Notice of extension of time limit for preliminary results of administrative reviews.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the fourth administrative reviews of the countervailing duty orders on Certain Pasta from Italy and Turkey. The period of review for both cases is January 1, 1999, through December 31, 1999.

EFFECTIVE DATE: April 13, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney (Italy) or Annika O'Hara (Turkey), Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–1778 or 482–3798, respectively.

The Applicable Statute and Regulations

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

Extension of Time Limit for Preliminary Results

The Department initiated these administrative reviews on August 25, 2000 (65 FR 53980 (September 6, 2000)). Under section 751(a)(3)(A) of the Act, the Department is required to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to do so, section 751(a)(3)(A) allows the Department to extend this deadline by a maximum of 120 days. Due to the large number of responding companies in these reviews and the administrative constraints resulting from other ongoing administrative reviews and investigations assigned to the office handling this case, it is not practicable to issue the preliminary results of these reviews within the time limit currently mandated by section 751(a)(3)(A) (i.e., April 2, 2001). Therefore, in accordance with section 751(a)(3)(A) and 19 CFR 351.213(h)(2), the Department is extending the time limit for completion of the preliminary results of these reviews by 120 days (i.e., until July 31, 2001).

Dated: March 28, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 01–8168 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

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

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 99–1A005.''

California Almond Export Association, L.L.C. original Certificate was issued on December 27, 1999 (65 FR 760, January 6, 2000). A summary of the application for an amendment follows.

Summary of the Application:

Applicant: CAEA—California Almond Export Association, L.L.C., 4800 Sisk Road, Modesto, California 95356.

Contact: Doug Youngdahl, Chairman, Telephone: (916) 446–8595.

Application No.: 99–1A005.

Date Deemed Submitted: March 26, 2001.

Proposed Amendment: CAEA seeks to amend its Certificate to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 C.F.R. 325.2(1)): Fisher Nut Company, Modesto, California; Minturn Nut Company, LeGrand, California; Quality Nut Company, Escalon, California; and Ryan*Parreira Almond Company, Los Banos, California; and

2. Delete Dole Nut Company, Bakersfield, California, as a ''Member'' of the Certificate:

Dated: March 28, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading, Company Affairs.

[FR Doc. 01–8102 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–DR–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.032301D]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: The Washington Department of Fish and Wildlife (WDFW) has submitted four Hatchery and Genetic Management Plans (HGMP) for Salmon Creek, Chimacum Creek, Jimmycomelately Creek, and Big Beef Creek summer chum salmon pursuant to the protective regulations promulgated for Hood Canal summer-run chum salmon under the Endangered Species Act (ESA). The U.S. Fish and Wildlife Service (USFWS) has submitted four HGMPs for Quilcene River, Hamma Hamma River, Lilliwaup Creek, and Union River summer chum salmon pursuant to the same ESA rule. The WDFW and USFWS HGMPs describe artificial propagation programs designed to increase the abundance of listed, indigenous summer chum salmon stocks. The WDFW HGMPs include two programs designed to reintroduce

summer chum salmon into watersheds where populations have been extirpated. This document serves to notify the public of the availability of the HGMPs for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft HGMPs must be received no later than 5 p.m. Pacific Standard Time on May 3, 2001.

ADDRESSES: Written comments and requests for copies of the draft HGMPs should be addressed to Tim Tynan, Sustainable Fisheries Division, National Marine Fisheries Service, 510 Desmond Drive, Suite 103, Lacey, Washington 98503. Comments may also be sent via fax to 360/753–9517. The documents are also available on the internet at http://www.nwr.noaa.gov/, Sustainable Fisheries Division site. Comments will not be accepted if submitted via e-mail or the internet.

FOR FURTHER INFORMATION CONTACT: Tim Tynan at phone number: 360/753–9579, or e-mail: tim.tynan@noaa.gov regarding the HGMPs.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Hood Canal summer-run chum salmon (*Oncorhynchus keta*) and Puget Sound chinook salmon (*Oncorhynchus tshawytscha*) Evolutionarily Significant Units (ESU).

Background

The Salmon Creek HGMP submitted by WDFW describes an artificial propagation program that proposes to take up to 130 natural and hatchery-origin summer chum salmon adults as broodstock and produce 123,000 juvenile fish of the native stock for rearing in Salmon Creek and release into adjacent marine waters annually. The program also proposes to take up to 110 additional adult summer chum salmon as broodstock to provide gametes for summer chum salmon reintroduction into Chimacum Creek, a neighboring watershed where summer chum salmon have been extirpated. The purposes of the program are: (1) to preserve and increase the abundance of the local, indigenous stock of summer chum salmon; (2) to assist in restoring natural spawning escapement to historical levels, (3) to provide broodstock for the reintroduction of summer chum salmon into Chimacum Creek; and (4) to monitor and evaluate the effectiveness of the supplementation program.

The Chimacum Creek HGMP submitted by WDFW describes an artificial propagation program that proposes to use gametes spawned from 110 Salmon Creek stock natural and hatchery-origin summer chum salmon to produce 86,000 juvenile fish of the transferred stock for rearing in the Chimacum Creek watershed and release into adjacent marine waters annually. The purposes of the program are: (1) to reintroduce summer chum salmon into a watershed where the native population has been extirpated, using transferred local stock; (2) to restore a healthy, natural, self-sustaining population of summer chum salmon in Chimacum Creek that will maintain the genetic characteristic of the native donor stock; and (3) to monitor adult returns from the initial releases and evaluate the natural spawning success of these adults.

The Jimmycomelately Creek HGMP submitted by WDFW describes an artificial propagation program that proposes to take 100 percent of the returning summer chum salmon adults as broodstock for artificial propagation as an emergency measure for an extremely small population identified as at immediate risk of extinction. This emergency measure will be continued until the population rebounds to annual return levels greater than 100 spawners. Up to 86,000 juvenile fish of the native stock are proposed to be released in Jimmycomelately Creek annually. The purposes of the program are: (1) to initiate a supplementation program using the indigenous summer chum broodstock, thus retaining future options for recovery of the population; (2) to increase the numbers of naturally produced fish by developing and maintaining a population comprised of supplemented and naturally spawning fish using hatchery and wild-origin broodstock; and (3) to monitor and evaluate the effectiveness of the supplementation program.

The Big Beef Creek HGMP submitted by WDFW describes an artificial propagation program that proposes to use gametes spawned from 100 Quilcene stock natural and hatchery-origin summer chum salmon adults to produce 103,000 juvenile fish for release into Big Beef Creek annually. An artificial spawning channel is also proposed to enhance the productivity of naturally spawning adults returning to the creek as a result of transferred fish releases. The purposes of the program are: (1) to reintroduce summer chum salmon into a watershed where the native population has been extirpated, using transferred local stock; (2) to restore a healthy, natural, self-sustaining population of summer chum salmon in Big Beef Creek that will maintain the genetic characteristic of the native donor stock; (3) to identify and compare wild and hatchery-origin chum spawner productivity, and survival from out-migration to adult return; and (4) to monitor and evaluate the effectiveness of the reintroduction program.

The Quilcene River HGMP submitted by USFWS describes an artificial propagation program that proposes to take up to 400 natural and hatchery-origin summer chum salmon adults as broodstock and produce 373,000 juvenile fish of the native stock for release into the Big Quilcene River annually. The program also proposes to take up to 100 additional summer chum salmon as broodstock to provide gametes for reintroduction into Big Beef Creek, a neighboring Hood Canal watershed where summer chum salmon have been extirpated. The purposes of the program are: (1) to preserve and increase the abundance of the local, indigenous stock of summer chum salmon; (2) to assist in restoring natural spawning escapement to historical levels; (3) to provide broodstock for the reintroduction of summer chum salmon into Big Beef Creek; (4) to identify and compare wild and hatchery-origin chum spawner productivity, and survival from out-migration to adult return; and (5) to monitor and evaluate the effectiveness of the program.

The Hamma Hamma River HGMP submitted by USFWS describes an artificial propagation program that proposes to take up to 100 natural and hatchery-origin summer chum salmon adults as broodstock and produce up to 125,000 juvenile fish of the native stock for release into the Hamma Hamma River annually. The purposes of the program are: (1) to preserve and increase the abundance of the local, indigenous stock of summer chum salmon; (2) to assist in restoring natural spawning escapement to historical levels; and (3) to monitor and evaluate the effectiveness of the supplementation program.

The Lilliwaup Creek HGMP submitted by USFWS describes an artificial propagation program that proposes to take 100 percent of the returning adult summer chum as broodstock for artificial propagation as an emergency measure for an extremely small population identified as at immediate risk of extinction. This emergency measure will be continued until the population rebounds to annual return levels greater than 100 spawners. Up to 50,000 juvenile fish of the native stock will be produced for release in Lilliwaup Creek annually. The purposes of the program are: (1) to conduct a supplementation program using the indigenous summer chum broodstock, thus retaining future options for recovery of the population; (2) to

increase the numbers of naturally produced fish by developing and maintaining a population comprised of supplemented and naturally spawning fish using hatchery and wild-origin broodstock; and (3) to monitor and evaluate the effectiveness of the supplementation program.

The Union River HGMP submitted by USFWS describes an artificial propagation program that proposes to take up to 97 natural and hatchery-origin summer chum salmon adults as broodstock and produce 86,000 juvenile fish of the native stock for release into the Union River annually. The purposes of the program are: (1) to initiate a supplementation program using the indigenous summer chum broodstock; (2) to increase the numbers of naturally produced fish by developing and maintaining a population comprised of supplemented and naturally spawning fish using hatchery and wild-origin broodstock; (3) to monitor and evaluate the effectiveness of the supplementation program; and (4) (when adult returns have been increased to appropriate levels) to provide broodstock for the reintroduction of summer chum salmon into the Tahuya River, a neighboring Hood Canal watershed where summer chum salmon have been extirpated.

As specified in § 223.203 (b)(5) of the ESA 4(d) rule, NMFS may approve an HGMP if it meets criteria set forth in § 223.203 (b)(5((i)(A) through (K). Prior to final approval of an HGMP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activity associated with artificial propagation provided that a state or Federal HGMP has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Dated: March 28, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–8165 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 000410098–1077–02]

RIN 0660–ZA12

Market for Satellite Communications and the Role of Intergovernmental Satellite Organizations

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice, request for comments.

SUMMARY: The Department of Commerce requests comments regarding the advantages accorded signatories of the International Telecommunications Satellite Organization (INTELSAT), in terms of immunities, market access, or otherwise, in the countries or regions served by INTELSAT, the reason for such advantages, and an assessment of progress toward fulfilling a pro-competitive privatization of that organization. The Department notes that Inmarsat privatized on April 15, 1999 and INTELSAT plans to privatize by July 18, 2001. The International Anti-Bribery and Fair Competition Act of 1998, Public Law 105–366, implements the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the OECD Convention). In that legislation, the U.S. Congress imposed certain reporting requirements for the Department of Commerce to begin in 1999 and to continue annually for the next five years. The Secretary of Commerce issued the first report in July 1999 [1] and the second in July 2000.[2]

The House report on the legislation expresses an expectation for extensive fact-findings on the nature of the market for satellite communications and, in particular, the role of the then intergovernmental satellite organizations (ISOs) INTELSAT and Inmarsat. The report required by the legislation monitors the implementation and enforcement of other nations' commitments under the OECD Convention and tracks the reduction of privileges and immunities for the ISOs. This Request for Comments (RFC) will assist the Secretary of Commerce in responding to those reporting requirements.

Moreover, on March 17, 2000, the President signed into law the Open-Market Reorganization for the Betterment of International Telecommunications (ORBIT) Act, Pub. L. 106–180. This legislation seeks to ''promote a fully competitive global market for satellite communications services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat.'' Id. at sec. 2. In addition, the ORBIT Act requires the President to provide an annual report to Congress on the progress of privatization in relation to the objectives, purposes, and provisions of the Act, including the ''[v]iews of the industry and consumers on privatization'' and the ''[i]mpact privatization has had on United States industry, United States jobs, and United States industry's access to the global marketplace.'' See id. at sec. 646(b)(3) and (4). The first such report was released on February 27, 2001.[3] By this public notice and RFC, we are also soliciting the views of the industry and consumers on such privatization.

DATES: Comments must be received by May 3, 2001.

ADDRESSES: The Department invites the public to submit written comments in paper or electronic form. Comments may be mailed to Milton Brown, National Telecommunications and Information Administration (NTIA), Room 4713, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230. Paper submissions should include a version on diskette in ASCII, Word Perfect (please specify version), or Microsoft Word (please specify version) format.

Comments submitted in electronic form may be sent to <privatization@ntia.doc.gov>.

---

[1] See Addressing the Challenges of International Bribery and Fair Competition—The First Annual Report Under Section 6 of the International Anti-Bribery and Fair Competition Act of 1998, July 1999 (available at <*http://www.mac.doc.gov/TCC/BRIBERY/oecd_report/*>).

[2] See Addressing the Challenges of International Bribery and Fair Competition—The Second Annual Report Under Section 6 of the International Anti-Bribery and Fair Competition Act of 1998, July 2000 (available at <*http://www.mac.doc.gov/TCC/BRIBERY/oecd_report_2000/*>).

[3] See Department of State, Report to Congress, Report Pursuant to Section 646(a) of Section 3 of the Open-Market Reorganization for the Betterment of International Telecommunications Act (Pub. L. 106–180), (Feb. 2001) [''ORBIT Report''].

Electronic comments should be submitted in the formats specified above.

All comments will be posted on NTIA's web site at <http://www.ntia.doc.gov>.

FOR FURTHER INFORMATION CONTACT: Milton Brown, NTIA/OCC, (202) 482–1816.

SUPPLEMENTARY INFORMATION:

Background

INTELSAT is a treaty-based global communications satellite cooperative with 144 member countries. INTELSAT was created to enhance global communications and to spread the risks of creating a global satellite system across telephone operating companies from many countries.[4] Inmarsat was created to improve the global maritime communications satellite system that would provide distress, safety, and communications services to seafaring nations in a cooperative, cost-sharing entity. In April of 1999, Inmarsat was fully privatized by transferring its assets and operations to Inmarsat Ltd., a U.K. corporation that enjoys no privileges or immunities. INTELSAT divested some of its satellites in 1998 to New Skies Satellites, NV, a Netherlands corporation, and plans to be fully privatized by July 18, 2001.[5] As an intergovernmental satellite organization, INTELSAT is governed by ''Parties'' and managed by ''signatories.'' The Parties are the national government members of the organizations who have signed the INTELSAT Agreement. Signatories are designated by each party to participate in the commercial operations of the organization. They hold ownership interests in varying degrees. They also assist with the operation and management of the systems and are distributors of ISO services in their own countries. Signatories may be government-owned or controlled telecommunications monopolies or other telecommunications service providers. The publicly traded COMSAT Corporation (a wholly-owned subsidiary of Lockheed Martin Corporation) is the U.S. Signatory to INTELSAT.[6] INTELSAT is currently subject to oversight by the Assembly of Parties, and signatories are subject to oversight by their respective governments.

To implement public service obligations effectively and as part of INTELSAT's unique treaty status as an international organization, it benefits from certain privileges and immunities. As such, it is, until privatization, generally immune from suit, including private or public prosecution on antitrust charges.[7] Moreover, INTELSAT does not pay taxes on revenues, and exemptions extend to import duties and taxes, communications and property taxes. Signatories, however, are subject to national taxes, including taxes on their share of the organization's distributed returns.

The International Anti-Bribery and Fair Competition Act of 1998, Public Law 105–366, requires the Secretary of Commerce to submit a report to the House of Representatives and the Senate that contains information regarding the OECD Convention including the following: (1) A list of countries that have ratified the Convention; (2) a description of the domestic laws enacted by each party to the Convention that implements commitments under the Convention; and (3) an assessment of the measures taken by each party to the Convention during the previous year to fulfill its obligations under the Convention. See Public Law 105–366, sec. 6(a). Accordingly, the Secretary of Commerce is required to report, inter alia, on the ''terms of market access, government ownership, government contracts or connections, privileges and immunities, favorable treatment by national regulatory authorities or tax treatment * * * in the countries or regions served by the [INTELSAT], and the reasons for such advantages.'' H.R. Rep. No. 105–802, at 9 (1998). In preparation for this report, the Secretary of Commerce is required to seek and incorporate comments from the private sector, including competing satellite companies and satellite services users. Id. The Secretary of Commerce issued the first two reports in July 1999 and July 2000.[8]

NTIA is now formally soliciting public comment for the Secretary's third annual report on the advantages, in terms of immunities, market access, or otherwise, in the countries or regions served by INTELSAT, the reasons for such advantages, and an assessment of progress toward fulfilling a pro-competitive privatization of this organization. ''Pro-competitive privatization'' is defined as ''privatization that the President determines to be consistent with the United States policy of obtaining full and open competition to such organizations (or their successors), and nondiscriminatory market access, in the provision of satellite services.'' See Public Law 105–366, section 5(a)(2). Respondents may find it useful to review the full text of the International Anti-Bribery and Fair Competition Act of 1998.

On March 17, 2000, the President signed into law the Open-market Reorganization for the Betterment of International Telecommunications (ORBIT) Act. Public Law 106–180. The purpose of the ORBIT Act is ''to promote a fully competitive global market for satellite communications services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat.'' Id. at sec. 2. To achieve this goal, the ORBIT Act provides specific criteria for licensing and market access for INTELSAT, Inmarsat and New Skies Satellites, and changes the statutes affecting COMSAT. In addition, the ORBIT Act requires the President to provide an annual report to Congress on the progress of privatization in relation to the objectives, purposes, and provisions of the Act including the ''[v]iews of the industry and consumers on privatization'' and the ''[i]mpact privatization has had on United States industry, United States jobs, and United States industry's access to the global marketplace.'' See id. at section 646(b)(3) and (4). By this public notice and RFC, we are also soliciting the views of the industry and consumers on the privatization of INTELSAT and Inmarsat with respect to the goals of achieving a pro-competitive privatization of these organizations. Respondents may find it useful to review the full text of the ORBIT Act.

Dated: March 28, 2001.

Kathy Smith,

Chief Counsel.

[FR Doc. 01–8065 Filed 4–2–01; 8:45 am]

BILLING CODE 3510–60–P

[4] See Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies.

[5] Although both ISOs will be fully privatized, two small residual intergovernmental organizations, ITSO from INTELSAT, and IMSO (International Mobile Satellite Organization) from Inmarsat, will remain to monitor the performance of certain public services.

[6] COMSAT is now merged into Lockheed Martin Corporation.

[7] We note that the ORBIT Act limits privileges and immunities previously afforded COMSAT as the U.S. Signatory to INTELSAT. See Public Law 106–180, sec. 642(b).

[8] Supra n. 1, 2.

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense Health Affairs, DoD.

ACTION: Notice.

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) 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 June 4, 2001.

ADDRESSES: Written comments and recommendations on the information collection should be sent to TRICARE Management Activity, Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, ATTN: Marty Maxey, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the above address or call TRICARE Management Activity, Medical Benefits and Reimbursement Systems, at (303) 676–3627.

Title of Information Collection: Criteria for TRICARE/CHAMPUS Coverage of Organ Transplantation.

Needs and Uses: TRICARE/CHAMPUS participating hospitals must file a narrative application to be approved for coverage and payment of organ transplants performed on TRICARE/CHAMPUS beneficiaries.

Affected Public: Business or other for profit.

Annual Burden Hours: 100.

Number of Respondents: 1.

Responses per Respondent: 1.

Average Burden per Response: 100 hours.

Frequency: Collected at the time of initial application. A facility that wishes to obtain TRICARE/CHAMPUS coverage for organ transplantation shall submit a narrative application for approval and, once approved, report events or changes that would affect its approved status.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

TRICARE Management Activity (TMA), formerly known as OCHAMPUS, is in the process of submitting a final rule for publication in the **Federal Register**, clarifying coverage of organ transplants. 32 CFR Part 199(e)(5) allows coverage for organ transplant procedures provided the procedure is in accordance with accepted professional medical standards and is not considered unproven. In the case of organ transplantation, we believe many other factors are related to the safety and efficacy of the transplant. Thus, coverage of organ transplantation requires detailed criteria to identify the context in which organ transplantation can be considered medically reasonable and necessary. The requested information is needed to ensure a hospital meets the criteria to qualify for CHAMPUS coverage and payment of transplants performed by the facility.

If a facility is a Medicare approved transplant center, TRICARE/CHAMPUS recognizes the facility as a TRICARE/CHAMPUS approved center for the specific organ for which the facility has received approval. If a facility is not Medicare approved, the hospital must provide information on patient selection, patient management, commitment, facility plans, experience and survival rates, maintenance of data, organ procurement, laboratory procedures and billing when it applies to TRICARE/CHAMPUS for a coverage determination.

This notice contains information collection requirements that are subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1980. The information collection concerns the requirement that a facility that wishes to obtain TRICARE/CHAMPUS coverage for organ transplantation submit an application for approval and, once approved, report events or changes that would affect its approved status. Public reporting burden for this collection of information is expected to be 100 hours.

There are no strict formats facilities must use in applying for coverage. The application is primarily narrative and has no standard format.

Dated: March 22, 2001.

Patricia Toppings,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8070 Filed 4–2–01; 8:45 am]

BILLING CODE 5001–10–W

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

Title, Form, and OMB Number: Involuntary Allotment Application; DD For 2653; OMB Number 0704–0367.

Type of Request: Revision.

Number of Respondents: 9,314.

Responses per Respondent: 1.

Annual Responses: 9,314.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 4,657.

Needs and Uses: This information is collected by the Department of Defense to initiate an involuntary allotment from the pay of a member of the Uniformed Services for indebtedness owed a third party as determined by the final judgment of a court. This requirement was created by ''The Hatch Act Reform Amendments of 1993,'' Public Law 103–94. The form requires the creditor to provide identifying information on the member of the Uniformed Services, certify a judgment was obtained, and that the member's rights under the Soldiers' and Sailors' Civil Relief Act were protected.

Affected Public: Individuals or households; business or other for-profit.

Frequency: On occasion.

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

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 28, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8068 Filed 4–2–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

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

Title, Form, and OMB Number: Department of Defense Public and Community Service (PACS) Program; DD Form 2581 and 2581–1; OMB Number 0704–0324.

Type of Request: Reinstatement.

Number of Respondents: 1,165.

Responses per Respondent: 1.

Annual Responses: 1,165.

Average Burden per Response: 14 minutes.

Annual Burden Hours: 276

Needs and Uses: Public Law 102–484 requires the Secretary of Defense to maintain a Public and Community Service (PACS) Registry for employers looking to hire separated service members in jobs that fall within the scope of public and community service employment. All organizations and employers who wish to register in the PACS organizational registry must meet the Department of Defense eligibility requirements. In accordance with 10 U.S.C. 1143a(c), the PACS Registry provides separating Service members with information regarding the availability of employers who want to hire them in a PACS organization or job. DD Form 2581, ''Operation Transition Employer Registration'' and DD Form 2581–1, ''Public and Community Service Organization Validation,'' are used in support of the Department of Defense Program for public and community service employment assistance.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Frequency: On occasion.

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

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 28, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8069 Filed 4–2–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Cancellation of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Systems Technology for the Future U.S. Strategic Posture meeting scheduled for March 29–30, 2001, has been cancelled.

Dated: March 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8071 Filed 4–2–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Meeting date change.

SUMMARY: The Defense Science Board Task Force on Intelligence Needs for Homeland Defense closed meeting scheduled for April 24–25, 2001, has been changed to April 23–24–25–26, 2001. The location of the meeting has not changed; the meeting will be held at Strategic Analysis, Inc., 3601 Wilson Boulevard, Suite 600, Arlington, VA.

Dated: March 28, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–8072 Filed 4–2–01; 8:45 am]

BILLING CODE 5001–10–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 2001–1]

High-Level Waste Management at the Savannah River Site

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice, recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 2286a(a)(5) concerning high-level waste management at the Savannah River Site.

DATES: Comments, data, views, or arguments concerning this recommendation are due on or before May 3, 2001.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri or Andrew L. Thibadeau at the address above or telephone (202) 694–7000.

Dated: March 27, 2001.

John T. Conway,

Chairman.

[Recommendation 2001–1],

High-Level Waste Management at the Savannah River Site

Dated: March 23, 2001.

The mission of the Savannah River Site (SRS) high-level waste (HLW) system is to safely store and treat HLW while also supporting site initiatives such as the stabilization of remnants of nuclear weapons production. Storage of HLW is provided by 49 tanks, referred to collectively as the Tank Farms, which contain approximately 34 million gallons of HLW. Presently, treatment primarily consists of waste concentration in evaporators and sludge vitrification at the Defense Waste Processing Facility (DWPF). DWPF currently produces more than 225 vitrified waste canisters per year and during its lifetime is expected to produce a total of approximately 6,000 canisters. Recently, the most pressing challenge at the SRS Tank Farms has been managing available tank space.

Average annual waste inflow to the Tank Farms totals approximately 2.5 million gallons, generated primarily from vitrification activities and nuclear material stabilization. The largest portion of the inflow, approximately 1.3 million gallons, is the DWPF return

waste stream (DWPF recycle). Another 500,000 gallons consists of sludge wash water, generated during the preparation of sludge feed to DWPF. Nuclear material stabilization operations at the chemical processing canyons generate approximately 600,000 gallons of annual inflow, and another 100,000 gallons is generated through several miscellaneous operations.

Reducing the volume of waste in the Tank Farms is currently accomplished primarily by concentrating dilute waste through evaporation. The operation of all three Tank Farm evaporators can reduce the required storage volume by more than 2.5 million gallons annually. However, the evaporators have recently experienced significant problems, limiting the two newest and highest-capacity evaporators to little or no operation. The vitrification of sludge at DWPF does not reduce the volume of waste in the Tank Farms because the volume of DWPF recycle and sludge wash water returned to the Tank Farms is significantly greater than the volume of sludge removed. The lack of adequate volume reduction, combined with the waste produced during vitrification operations, has led to a situation in which available tank space has steadily decreased.

Contributing to the tank space problem is an emphasis on the operation of the DWPF at the expense of the overall operability of the Tank Farms. This situation is evident in the HLW Performance-Based Incentives in the contract, which are weighted more than 60 percent toward the production of vitrified waste canisters. Tank space has now been reduced to a critically low level, which threatens to halt DWPF vitrification.

Several options have been identified at SRS which could help alleviate the tank space shortage. These include operation of a salt processing facility, reduction or elimination of the DWPF recycle stream, recovery of former In-Tank Precipitation (ITP) Facility process tanks for HLW operation, and solution of problems that have significantly limited evaporator operation. These options are discussed in more detail below.

Salt Processing

An essential element missing from the current HLW treatment operations is salt processing. Salt processing would remove key radionuclides from HLW liquids and saltcake, allowing the remaining large volumes of water and soluble salts to be disposed of as low-level waste. The design, construction, and operation of a salt processing facility would be required to solve the tank space problems at the Tank Farms. Originally, the contractor attempted to backfit a salt processing capability into three HLW tanks that became the ITP Facility. Conceived as a cost-effective approach toward salt processing, the project was suspended in early 1998 because of safety and operability issues.

Recognizing the urgency of continuing salt processing development, the contractor aggressively examined alternatives and, in 1999, recommended pursuing a modified precipitation process. DOE chose to delay a decision on this recommendation and directed the contractor to study the problem further. Now, more than 3 years after the cancellation of ITP, there is still no decision on the basic technology to be used for salt processing. The salt processing facility is currently delayed until at least 2010. The most recent milestone for this program, issuance of a draft request for proposals to design and build the facility, has been overdue since December 2000, primarily because of funding priorities.

DWPF Recycle

Currently, DWPF produces the largest volume of waste received at the Tank Farms. The combination of the waste generated within DWPF and the large volume of water and corrosion inhibitor added to make the waste acceptable for tank storage produces more than 1 million gallons of DWPF recycle each year. The contractor has long recognized that very large volumes of waste were being sent from DWPF to the Tank Farms, and many planning documents suggest that an evaporator could be installed at DWPF to nearly eliminate the recycle stream. However, DOE has never pursued this activity.

In 1999, a contractor system engineering team again recommended that an evaporator be used to eliminate DWPF recycle, but also requested that DWPF staff consider other means of reducing the recycle volume. Through modification to the facility, the DWPF staff found ways to reduce the recycle volume from more than 2 million gallons per year to the present level of approximately 1.3 million gallons per year.

This great volume savings notwithstanding, the DWPF recycle continues to place a significant strain on the HLW system. DWPF recycle generates the largest volume of waste receipts, and silicates contained in the recycle have been found to cause significant problems with the evaporators.

Former ITP Process Tanks

Approximately 3 million gallons of tank space could be added by returning Tanks 48, 49, and 50 from the former ITP Facility to HLW service. During the development of the ITP process, these modern, fully compliant tanks were dedicated exclusively to ITP service. The contractor has planned to recover Tanks 49 and 50 for some time, but progress has been slow. The contractor is working to return Tank 49 to HLW service this year. However, restoration of Tank 50 is not being aggressively pursued, and the tank is not scheduled to be available until the end of 2002. There are currently no plans for near-term recovery of Tank 48, which contains tetraphenylborate precipitates generated during ITP process testing. Although recovery of Tank 48 poses significant technical issues, restoration of Tank 50 is limited primarily by the resources applied to the effort.

Evaporator Operation

The three HLW evaporators (2F, 2H, and 3H) have the combined capacity to recover more than 2.5 million gallons of tank space per year and are needed to provide sufficient tank space to support Tank Farm operation until a salt processing facility becomes operational. However, the actual productivity of the evaporators has been severely limited by waste compatibility issues and degradation of equipment.

Waste Compatibility Issues—In late 1999, the contractor discovered unexpected solids accumulating in the 2H evaporator pot. These solids are believed to be generated by silicates in DWPF recycle reacting with aluminum in canyon wastes. The deposits contain enriched uranium and present a potential criticality hazard. The 2H evaporator has been shut down since January 2000 while this issue is being resolved.

The contractor is working to remove these deposits and restart the 2H evaporator by July 2001. In the meantime, DWPF recycle waste, as well as other wastes high in silicon content, are prohibited from the 2F and 3H evaporator systems until the mechanism of the deposition has been understood and a solution devised.

Tritium is found in many of the HLW tanks and continues to enter the Tank Farms as the result of spent nuclear fuel processing at the SRS canyon facilities. The concentration of tritium varies from tank to tank. Tritium passes through the system during HLW pretreatment and evaporation, eventually being released at the Effluent Treatment Facility. Evaporator operations are limited on

occasion by the need to coordinate Tank Farm activities and monitor the tritium levels to prevent the release of tritium from the system in excess of release limits. Like the silicate problem, the need to segregate tritiated waste streams adversely affects the ability to use tank space efficiently.

Equipment Issues—Several emergent equipment issues have also limited the ability of evaporators to concentrate waste. In 1999 and 2000, startup of the 3H evaporator was delayed for months because of problems with a valve in the system. In November 2000, the contractor discovered that all five of the cooling coils for the tank that receives concentrate from this evaporator were leaking. Because of temperature limits in this tank, the 3H evaporator, which is the newest and highest-capacity evaporator, is now limited to only a few days of operation each month.

Because of the problems with the 2H and 3H evaporators, operation of the 2F evaporator is now providing most of the space gains for the HLW system. The 2F evaporator pot has been in service for more than 10 years and has exceeded its designed service life. Failure of this pot would further reduce the ability to regain space in the Tank Farms. Additionally, the contractor's plan for handling space issues during the next few years relies heavily on the ability to perform many inter-area transfers (i.e., between F- and H-Areas). Significant failures of equipment or systems associated with the inter-area transfer system would also impact the Tank Farm system.

Many of the significant equipment issues identified with the Tank Farms were unexpected. However, given the age of the HLW system at SRS, it is likely that additional significant issues will be identified in future years.

High-Level Waste Tank 6

In late 2000, the contractor evaluated various short-term alternatives for addressing the lack of tank space threatening to shut down DWPF operations. The alternative chosen started with a transfer of 330,000 gallons of DWPF recycle to Tank 6, a 1950s-vintage Type I tank. Although 5 of the 12 original Type I tanks had already leaked, the prior service of Tank 6 and primary tank wall inspections indicated that the tank was sound. Before the transfer to Tank 6, the contractor made preparations to pump liquid from the tank annulus back into the primary tank in the event of a large leak. In January 2001, shortly after the transfer to Tank 6, the contractor discovered approximately 90 gallons of liquid in the tank annulus and, upon further video inspection, found 6 leak sites on the primary tank wall.

After the primary tank wall, the next barrier to the release of waste is the 5-foot-tall annulus pan in which the primary tank sits. The annulus pan was not designed for the long-term storage of waste and cannot be adequately inspected. Therefore, the condition of the pan is not well known, and it cannot be relied upon as a long-term containment for liquid waste. If the annulus were to leak waste to the environment, it would likely take several years to detect the leak through the use of external monitoring wells.

DOE and the contractor have thus far proposed transferring only that portion of waste in Tank 6 above the three highest, most visibly active, leak sites. The waste level would remain above the other three leak sites. DOE and the contractor prefer this course of action because it would have the least impact on the operation of DWPF, in that it would minimize waste transfers from Tank 6 into tanks that would otherwise receive DWPF recycle or sludge wash water. However, this course of action represents a reduction in the margin of safety in the containment of liquid HLW. Furthermore, because of the elevated tritium content in the waste, the contractor plans to continue storage in Tank 6, and avoid transfers to other tanks and evaporators until additional space becomes available in Tank 8 in approximately two years.

The use of Tank 6 to alleviate pressing storage problems is an example of the need to fall back on doubtful engineering solutions for short-term mitigation of problems at SRS. Lack of sound engineering inevitably narrows desirable options.

Recommendation

In the Board's view, DOE has not proceeded with due diligence to address the worsening condition of the SRS Tank Farms. Continued delays in achieving long-term solutions increase the pressure to accept conditions that reduce the safety margin and increase operational complexity. The continuing reliance on old HLW tanks whose design would be unacceptable today, on support systems that have exceeded their design life, and on tanks known to have numerous cracks, has been required to manage the Tank Farms and to make partial progress toward the ultimate goal of immobilization of HLW. However, the Board is not convinced that continued storage of readily removable HLW liquid above known leak sites is necessary to achieve this goal. Accordingly, the Board recommends the following actions:

1. Initiate actions to remove transferable HLW liquid from Tank 6 to a level below all known leak sites.

2. Reassess the schedule and priority for selecting a technology for a salt processing capability, and vigorously accelerate the schedule leading to operation of a salt processing facility.

3. Develop and implement an integrated plan for HLW tank space management that emphasizes continued safe operation of the Tank Farms throughout its life cycle. This plan should include enough margin to accommodate contingencies and reduce overall programmatic risk. The plan should also restore operating margin to the Tank Farms by including action to:

a. reduce or eliminate the DWPF recycle stream,

b. recover former ITP tanks for Tank Farm operations,

c. assess the desirability of adding an additional HLW evaporator to support Tank Farm operations,

d. assess the feasibility of constructing new HLW tanks, and

e. resolve waste compatibility and equipment degradation problems to allow unconstrained operation of the three existing evaporators.

4. Reassess contractor incentives to ensure that near-term production at DWPF is not overemphasized at the expense of safety margin in the Tank Farms.

Actions provided by this recommendation are known to the contractor and DOE. In fact, all of these actions either have been or are being pursued to some degree. However, the unfocused manner in which they are being pursued is evident in the continued year-to-year delays. Meanwhile, problems caused by these delays are being resolved in part through reductions in margins of safety.

Given the time-sensitive nature of the actions identified by this Recommendation, the Board suggests that the Secretary of Energy avail himself of the authority under the Atomic Energy Act to ''implement any such Recommendation (or part of any such Recommendation) before, on, or after the date on which the Secretary of Energy transmits the implementation plan to the Board under this subsection.'' See 42 U.S.C. 2286d(e).

John T. Conway,
Chairman.

Appendix—Transmittal Letter to the Secretary of Energy

March 23, 2001.

The Honorable Spencer Abraham,
Secretary of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1000.

Dear Secretary Abraham: The Defense Nuclear Facilities Safety Board (Board) has been following closely the Department of Energy's (DOE) response to recently discovered leaks in Tank 6, a high-level waste (HLW) storage tank at the Savannah River Site (SRS). While this issue must be addressed on a specific basis, it is only a symptom of a much larger problem—the critical shortage of tank space in the HLW system—that threatens to delay stabilization of nuclear materials at SRS and may result in suspending vitrification of HLW at the Defense Waste Processing Facility (DWPF). Furthermore, this problem has led to a reduced margin of safety and a short-sighted emphasis on solving immediate problems at the expense of investing in comprehensive efforts to enhance the safety and flexibility of the HLW system.

As a result, the Board, on March 23, 2001, unanimously approved Recommendation 2001–1, High-Level Waste Management at the Savannah River Site, which is enclosed for your consideration. After your receipt of this recommendation and as required by 42 U.S.C. 2286d(a), the Board will promptly make it available to the public in DOE's regional public reading rooms. The Board has confirmed with DOE that the recommendation contains no information that is classified or otherwise restricted. Providing this recommendation does not include information restricted by DOE under the Atomic Energy Act of 1954, 42 U.S.C. 2161–68, as amended, please arrange to have it promptly placed on file in your regional public reading rooms. The Board will also publish this recommendation in the **Federal Register**.

Sincerely,

John T. Conway,
Chairman.

[FR Doc. 01–8064 Filed 4–2–01; 8:45 am]

BILLING CODE 3670–01–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 4, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 28, 2001.

Joe Schubart,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Evaluation of Title I Accountability Systems and School Improvement Efforts.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 5,140.

Burden Hours: 2,570.

Abstract: The purpose of the Evaluation of Title I Accountability Systems and School Improvement Efforts (TASSIE) is to examine and evaluate Title I accountability systems and school improvement efforts in a nationally representative sample of districts and schools. This project addresses both the implementation and effectiveness of accountability practices in 2,200 districts and 740 schools. The TASSIE will provide data on the extent of alignment between Title I accountability systems and states' and districts' own accountability systems, the assistance and incentives provided to school identified as in need of improvement, and will assess the impact of these policies and practices on schools, teachers, and students.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie_Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–8083 Filed 4–2–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Acting Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by March 30, 2001. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 4, 2001.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs,

Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren__Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: March 28, 2001.

Joe Schubart,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Even Start Letter on State Program Quality Indicators' Deadline.

Abstract: The letter reminds States of the statutory deadline of June 30, 2001 for submission of their program quality indicators for the Even Start Family Literacy Program (Part B of Title I of the Elementary and Secondary Education Act of 196), to qualify States for funding for Fiscal Year 2001.

Additional Information: The Department of Education is requesting emergency processing for the Even Start Letter on State Program Quality Indicators' Deadline due to an unanticipated event and statutory deadline. The Literacy Involves Families Together (LIFT) Act that was recently enacted on December 21, 2000 (Pub. L. 106–554) established a deadline of June 30, 2001 for States to submit program quality indicators to the Department of Education. Any State failing to submit these program quality indicators by that deadline will not qualify for Even Start funding for Fiscal Year 2001. Based upon the recent imposition of this legislative deadline, and the public harm that will occur if States fail to meet the deadline and lose their Even Start funding for Fiscal Year 2001, the Department is requesting that the emergency notice for the Even Start State Indicators of Program Quality Letter be published by March 30, 2001. This allows the Department to receive immediate approval from OMB in order for States to meet their statutory deadline.

Frequency: On Occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 26.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at her internet address Kathy__Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–8084 Filed 4–2–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Commission on Fire Safety and Preparedness

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a public meeting of the DOE Commission on Fire Safety and Preparedness. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), requires that public notice of the meetings be announced in the **Federal Register**.

DATES: Monday, April 23, 2001, 8:00 am to 5:00 pm.

ADDRESSES: Sheraton Augusta Hotel, 2651 Perimeter Parkway, Augusta, Georgia, 30909. (Tel.: 706–855–8100).

FOR FURTHER INFORMATION CONTACT: Frank Russo, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone number 301–903–1845, email: frank.russo@eh.doe.gov.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* The Fire Safety and Preparedness Commission is tasked with providing advice to the Secretary of Energy on the state of DOE fire protection programs and to provide guidance, advice and information on the readiness of the complex from the threat of wildland and facility fires.

The purpose of this second public meeting of the Commission is to provide members with an opportunity to obtain additional information from representatives of the Lead Program Secretarial Offices on the breadth of DOE missions, their associated fire hazards, existing fire prevention and protection measures, and the capabilities of site emergency services organizations. Additionally, the Commission will be provided a perspective on DOE fire safety from a representative of the Defense Nuclear Facilities Safety Board (DNFSB). The staff of the DOE Office of Environment, Safety and Health will provide a briefing on pending (fire protection) policy initiatives and oversight activities. Recent activities by the four Commission subcommittees will be reviewed.

Tentative Agenda

The Environmental Management Fire Protection Program
The Office of Science Fire Protection Program
Fire Protection for Defense Programs
The DNFSB Perspective on DOE Fire Safety
Pending Fire Safety Policy Initiatives
Wildland Fire Safety Implementation Plans

Commission Subcommittee Briefings
Question and Answer Period
Commission Deliberations
Public Comment Period

Public Participation: The meeting is open to the public on a first-come, first-served basis because of limited seating. Written statements may be filed with the Commission before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Frank Russo at the number above. Requests to make oral statements must be made and received five days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the Commission is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 am and 4 pm, Monday through Friday, except holidays.

Issued in Washington, DC on March 28, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–8105 Filed 4–2–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the State Energy Advisory Board. Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice be announced in the **Federal Register**.

DATE: April 12, 2001 from 8 a.m. to 5 p.m., and April 13, 2001 from 8 a.m. to 1 p.m. Phone: 202/737–2200.

PLACE: Grand Hyatt Washington, 1000 H Street, NW., Washington, DC 20001 (202) 582–1234.

FOR FURTHER INFORMATION CONTACT: William J. Raup, Office of Planning, Budget, and Outreach, Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE), Washington, DC 20585, Telephone 202/586–2214.

SUPPLEMENTARY INFORMATION: Purpose of the Board: To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals and objectives and programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub.L. 101–440).

Tentative Agenda

- STEAB Committee Updates
- Report on February 23, 2001 STEAB Budget Committee Meeting
- STEAB Annual Report
- Energy Policy Disscussion

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William J. Raup at the address or telephone number listed above. Requests to make oral presentations must be received five days prior to the meeting; reasonable provision will be made to include the statements in the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on March 27, 2001.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–8104 Filed 4–2–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

American Statistical Association Committee on Energy Statistics

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the American Statistical Association Committee on Energy Statistics, a utilized Federal Advisory Committee. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE AND TIME: Thursday, April 19, 2001 8:30 a.m.–4:40 p.m.; Friday, April 20, 2001 8:30 a.m.–11:50 a.m.

PLACE: U. S. Department of Energy, 8th Floor Conference Center, 950 L'Enfant Plaza, S.W., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Mr. William I. Weinig, EI–70, Committee Liaison, Energy Information Administration, U.S. Department of Energy, Washington, DC 20585, Telephone: (202) 287–1709. Alternately, Mr. Weinig may be contacted by email at william.weinig@eia.doe.gov or by FAX at (202) 287–1705.

Purpose of Committee: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy-related statistical matters.

Tentative Agenda

Thursday, April 19, 2001

A. Opening Remarks by the Chair, Room 8015
B. Major Topics, Room 8015 (unless otherwise noted)
  1. Opening Remarks by EIA's Acting Administrator
  2. A Briefing: Progress on the International (MARKAL) Model Development
  3. A Briefing: Analysis of Strategies for Reducing Multiple Emissions from Power Plants
  4. How Does EIA Measure the Impact of Its Data?
  5. Verifying an Electricity Model, Room 8021
  6. Electricity 2002: New Data Forms and New Confidentiality Policy, Room 8022
  7. Frequently Asked Questions About Survey Response Rates, Room 8022
  8. Public Questions and Comments
  9. Update and Results of Cognitive Testing of EIA Graphics, Room 8015
  10. Interagency Project: Disclosure Auditing System
  11. Monte Carlo Analysis of Uncertainty in Greenhouse Gas Emission Estimates: Carbon Dioxide Emissions from Energy and Industrial Sources in the U.S.
  12. How to Develop ''Emergency'' Surveys: Suggestions for ''Cutting Corners'
  13. Public Questions and Comments

Friday, April 20, 2001

C. Major Topics, Room 8015

1. Knowledge Transfer as EIA Staff Ages and Turns Over
2. Measures of Data Quality for EIA Surveys
3. Possible Invited Papers at the Joint American Statistical Association Meetings in 2002
4. Public Questions and Comments

D. Closing Remarks by the Chair

Public Participation: The meeting is open to the public. The Chair of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. If there are any questions, please contact Mr. William I. Weinig, EIA Committee Liaison, at the address or telephone number listed above.

Minutes: Available for public review and copying at the Public Reading Room, (Room 1E–190), 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued at Washington, DC on March 29, 2001.

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 01–8106 Filed 4–2–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM99–2–000]

Regional Transmission Organizations; Notice of Filing

March 28, 2001.

Take notice that on December 15, 2000, the Electric Power Supply Association, *et al.*, filed a motion requesting the Commission to convene a technical conference to provide guidance on implementation of Function 8 of Order No. 2000—Interregional Coordination.

We invite written comments on this on or before April 27, 2001. Any person desiring to submit comments should file them to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The comments must contain a caption that references Docket No. RM99–2–000. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 01–8117 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–63–002]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

March 28, 2001.

Take notice that on March 23, 2001, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective April 30, 2001.

Great Lakes states that the tariff sheets listed on Appendix A are being filed in conformance with section 154.202 of the Commission's regulations to implement a new Limited Firm Transportation Service under Rate Schedule LFT. Under Rate Schedule LFT, service will be firm except that service will be unavailable for a specified number of days, as mutually agreed to by the parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8112 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–039]

Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

March 28, 2001.

Take notice that on March 22, 2001, Gulf South Pipeline Company, LP (Gulf South) filed with the Federal Energy Regulatory Commission (Commission) a contract between Gulf South and the following company for disclosure of a recently negotiated rate transaction. As shown on the contract, Gulf South requests an effective date of April 1, 2001.

Special Negotiated Rate Between Gulf South Pipeline Company, LP and Axia Energy, LP, Contract No. 28756

Gulf South states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings, Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commissions's web

site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8115 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–172–002]

Mojave Pipeline Co.; Notice of Filing To Update Statements and Schedules

March 28, 2001.

Take notice that on March 22, 2001, Mojave Pipeline Company (Mojave) tendered for filing certain statements and schedules updating test period data filed at Docket No. RP01–172–000.

Mojave states that the statements and schedules submitted have been updated to replace test period data with actual data for each month of the four month adjustment period initially filed in Mojave's general rate proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 4, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8114 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–275–000]

Natural Gas Pipeline Company of America; Notice of Filing of Non-Conforming Firm Transportation Rate Discount Agreement

March 28, 2001.

Take notice that on March 21, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing a firm transportation rate discount agreement between Natural and Green Valley Chemical Corporation dated November 17, 2000 (Green Valley Contract) because it may contain provisions which do not conform to the terms and conditions of Natural's FERC Gas Tariff, Sixth Revised Volume No. 1. Natural has separately made a concurrent filing tendering Second Revised Sheet No. 414 for approval to update its List of Non-conforming Agreements to include the Green Valley Contract to be effective April 20, 2001.

Natural requests any waiver which may be required to permit the Green Valley Contract submitted herein to become effective on April 20, 2001 consistent with Natural's proposed Second Revised Sheet No. 414.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 4, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8116 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–229–001]

Trunkline LNG Co.; Notice of Compliance Filing

March 28, 2001.

Take notice that on March 22, 2001, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1–A, the following tariff sheet to be effective March 15, 2001:

Sub First Revised Sheet No. 23

TLNG asserts that the purpose of this filing is to comply with the Commission's Letter Order issued on March 14, 2001 in Docket No. RP01–229–000 which directed TLNG to clarify Section 3.8 of Rate Schedule FTS to reflect the removal of the price cap for capacity release transactions.

TLNG states that copies of this filing are being served on all affected customers, applciable state regulatory agencies and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8113 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1305–002]

Westar Generating, Inc.; Notice of Filing

March 28, 2001.

Take notice that on March 15, 2001, Westar Generating, Inc., tendered for filing corrections to its February 23, 2001, filing in the above-referenced docket number.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before April 6, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8077 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–151–000, et al.]

Escatawpa Funding, Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

March 27, 2001.

Take notice that the following filings have been made with the Commission:

1. Escatawpa Funding, Limited Partnership

[Docket No. EG01–151–000]

Take notice that on March 13, 2001, Escatawpa, Limited Partnership (Escatawpa) tendered for filing pursuant to Part 365 of the Commission's Regulations, 18 CFR Section 365, its application for determination of exempt wholesale generator status.

Escatawpa will own the Plant Daniel Combined Cycle New Generation project which consists of two generating units in Jackson County, Mississippi with a total output of 1064 MW.

Comment date: April 17, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Public Utility Commission of Texas

[Docket No. EL01–60–000]

Take notice that on March 26, 2001, the Public Utility Commission of Texas (Texas PUC) filed a petition requesting waiver, pursuant to 18 CFR 292.402, of Commission Rules under the Public Utility Regulatory Policies Act of 1978 (PURPA) that require public utilities to purchase power from qualifying facilities (QFs) and sell power to QFs and prescribe methods for establishing the cost of purchases by electric utilities from QFs. The Texas PUC states that legislation has been enacted in Texas to introduce retail competition beginning in January 2002. It also states in the restructured electric industry in Texas, the obligations imposed on utilities by the Commission's rules are unnecessary to meet the goals of PURPA and would impede the efficient functioning of a competitive market.

Comment date: April 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. American Transmission Co., LLC

[Docket No. ER01–1577–001]

Take notice that on March 22, 2001, American Transmission Company LLC (ATCLLC) tendered for filing substitute tariff sheets to its Open Access Transmission Tariff to correct errors in the tariff sheets submitted with its filing on March 19, 2001. ATCLLC requests an effective date of June 1, 2001.

Comment date: April 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Illinois Power Co.

[Docket No. ER01–1598–000]

Take notice that on March 22, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, tendered for filing the First Amendment to Service Agreement for Network Integration Transmission Service with Central Illinois Light Company (CILCO) entered into pursuant to Illinois Power's Open Access Transmission Tariff. Illinois Power requests an effective date of March 1, 2001 for the First Amendment and accordingly seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to CILCO.

Comment date: April 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Mid-Continent Area Power Pool

[Docket No. ER01–1599–000]

Take notice that on March 22, 2001, the Mid-Continent Area Power Pool (MAPP), tendered for filing jurisdiction as public utilities under Section 201(e) of the Federal Power Act, filed an amendment to the Restated Agreement, FERC Electric Tariff, Original Volume No. 2 that reduces the time required to amend or terminate the Restated Agreement.

Comment date: April 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Maine Electric Power Co.

[Docket No. ER01–1600–000]

Please take notice that on March 22, 2001 , Maine Electric Power Company (MEPCO) tendered for filing a service agreement for Long-Term Firm Point-to-Point transmission service entered into with FPL Energy Power Marketing, Inc. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented, Original Service Agreement No. 67.

Comment date: April 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. In Black Hills Corp., n/k/a Black Hills Power

[Docket No. ER01–1601–000]

Take notice that Black Hills Corporation, n/k/a Black Hills Power, Inc., a wholly-owned subsidiary of Black Hills Corporation, Inc. (a South Dakota holding corporation), on March 22, 2001, tendered for filing its Contract for Interconnection and Maintenance with the United States Department of Energy, Western Area Power Administration, and its Contract for Electric Service (Nonfirm Energy Service) with the United States Department of Energy, Western Area Power Administration. These contracts

amend and extend the interconnection, maintenance and sale of nonfirm electric service provisions of the parties' previous agreement dated November 14, 1988, Contract No. 88–BAO–307.

Copies of these filings were supplied to Western Area Power Administration.

Comment date: April 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER01–1602–000]

Take notice that on March 22, 2001, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing an Interconnection and Operating Agreement with The Dow Chemical Company (Dow), and a Generator Imbalance Agreement with Dow.

Comment date: April 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–8111 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–70–000]

Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed West Lorain Project and Request for Comments on Environmental Issues

March 28, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the West Lorain Project involving construction and operation of facilities by Columbia Gas Transmission Corporation (Columbia) in Lorain and Holmes Counties, Ohio.[1] Columbia would increase the operating pressure of Columbia's existing 14-mile-long 20-inch diameter Line L–2542 from 440 pounds per square in gauge (psig) to 630 psig and increase the operating pressure on 5.5 miles of Columbia's existing 12-inch diameter Line V from 500 psig to 550 psig.

Columbia would also abandon by replacement seven existing compressor units with a combined horsepower (hp) of 4,320, four gas coolers, and an existing building and appurtenances at its Wellington Compressor Station in Lorain County, Ohio and replace the abandoned compressors with two 4,500 hp electric driven compressor units. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Columbia provided to landowners. This fact sheet addresses a number of typically asked questions, including how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

Summary of the Proposed Project

Columbia is proposing the West Lorain Project to provide Northeast Ohio Natural Gas Corporation with up to 140,000 Dth/d (40 Mdth/d annually) for redelivery to FirstEnergy Trading Services, Inc. both wholly owned subsidiaries of First Energy Corp. The additional volumes of natural gas would be provided to FirstEnergy Corp. to supply installing five new combustion turbines to be installed adjacent to two existing combustion turbines at FirstEnergy Corp.'s West Lorain Plant in Lorain County, Ohio.

No ground disturbing activities would be involved with the uprating of these pipelines. All construction and ground disturbing activity would occur within the existing fenced area of the Wellington Compressor Station. The general location of Columbia's facilities is shown on the map attached as appendix 1.[2]

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Cultural resources
- Reliability and safety
- Air quality and noise
- Threatened and endangered species

We will evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

[1] Columbia's application was filed with the Commission on January 23, 2001, under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environment impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of GAS 1, PJ–11.1;
- Reference Docket No. CP01–70–000; and
- Mail your comments so that they will be received in Washington, DC on or before April 30, 2001.

Comments, protests and interventions may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm* under the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must sent a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–8076 Filed 4–2–01; 8:45 am]

BILLING CODE 6717–01–M

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6960–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Clean Water Act State Revolving Fund Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Clean Water Act State Revolving Fund Program, EPA ICR Number 1391.04, OMB Control Number 2040–0118 and expiration date of 09/30/01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 4, 2001.

ADDRESSES: Comments may either be mailed to Nelson L. Price, Office of Wastewater Management (4204M), ICC Building, U.S. Environmental Protection Agency, 1201 Constitution Ave., NW., Washington, DC 20460 or emailed to price.nelson@epa.gov and refer to EPA No. 1391.06.

FOR FURTHER INFORMATION CONTACT: Nelson L. Price at (202) 564–0602, or FAX at (202) 501–2403.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which consist of the fifty states, Puerto Rico, and the recipients of assistance in each of these jurisdictions.

Title: Clean Water Act State Revolving Fund Program (OMB Control No. 2040–0118; EPA ICR No.1391.04) expiring 09/30/01.

Abstract: The Clean Water Act, as amended by ''The Water Quality Act of 1987'' (U.S.C. 1381–1387 *et. seq.*), created a Title VI which authorizes grants to States for the establishment of State Water Pollution Control Revolving Funds (SRFs). The information activities are pursuant to section 606 of the Act, and SRF Interim Final Rule (March 1990).

The 1987 Act declares that water pollution control revolving loan funds shall be administered by an instrumentality of the State subject to the requirements of the Act. This means that each State has a general

responsibility for administering its revolving fund and must take on certain specific responsibilities in carrying out its administrative duties. The information collection activities will occur primarily at the program level through the State Intended Use Plan and Annual Report. The information is needed annually to implement section 606 of the Clean Water Act (CWA). The Act requires the information to ensure national accountability, adequate public comment and review, fiscal integrity and consistent management directed to achieve environmental objectives. The individual information collections are: (1) Capitalization Grant Application and Agreement / State Intended Use Plan, (2) Annual Report, (3) State Audit, and (4) Application for SRF Financial Assistance.

(1) *Capitalization Grant Application and Agreement / State Intended Use Plan:* The State will prepare a Capitalization Grant Application that includes an Intended Use Plan (IUP) outlining in detail how it will use all the funds available to the fund. The grant agreement contains or incorporates by reference the IUP, application materials, payment schedule, and required assurances. The bulk of the information is provided in the IUP, the legal agreement which commits the State and EPA to execute their responsibilities under the Act.

(2) *Annual Report:* The State must agree to complete and submit an Annual Report that indicates how the State has met the goals and objectives of the previous fiscal year as stated in the IUP and grant agreement. The Report provides information on loan recipients, loan amounts, loan terms, project categories, and similar data on other forms of assistance. The Report describes the extent to which the existing SRF financial operating policies, alone or in combination with other State financial assistance programs, will provide for the long term fiscal health of the Fund and carry out other provisions specified in the grant operating agreement.

(3) *Annual Audit:* Most States have agreed to conduct or have conducted a separate financial audit of the capitalization grant which will provide opinions on the financial statements, and a report on the internal controls and compliance with program requirements. The remaining States will be covered by audits conducted under the requirements of the Single Audit Act and by EPA's Office of Inspector General.

(4) *Application for SRF Financial Assistance:* Local communities and other eligible entities have to prepare and submit applications for SRF assistance to their respective State Agency which manages the SRF program. The State reviews the completed loan applications, and verifies that the proposed projects will comply with applicable Federal and State requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

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

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement

(1) Capitalization Grant Application and Agreement/State Intended Use Plan		
2001	51 States × 400 Hours	= 20,400 Burden Hours.
2002	51 States × 400 Hours	= 20,400 Burden Hours.
2003	51 States × 400 Hours	= 20,400 Burden Hours.
(2) Annual Report		
2001	51 States × 275 Hours	= 14,025 Burden Hours.
2002	51 States × 275 Hours	= 14,025 Burden Hours.
2003	51 States × 275 Hours	= 14,025 Burden Hours.
(3) State Annual Audit		
2001	51 States × 80 Hours	= 4,080 Burden Hours.
2002	51 States × 80 Hours	= 4,080 Burden Hours.
2003	51 States × 80 Hours	= 4,080 Burden Hours.
(4) Applications for SRF Financing Assistance		
2001	51 States × 39 Applications × 40 Hours	= 79,560 Hours.
2002	51 States × 44 Applications × 40 Hours	= 89,760 Hours.
2003	51 States × 49 Applications × 40 Hours	= 99,960 Hours.
2001	1,989 Communities × 60 Hours	= 119,340 Burden Hours.
2002	2,244 Communities × 60 Hours	= 134,640 Burden Hours.
2003	2,499 Communities × 60 Hours	= 149,940 Burden Hours.

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 23, 2001.

Michael B. Cook,

Director, Office of Wastewater Management.

[FR Doc. 01–8127 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[SWH–FRL–6960–8]

Agency Information Collection Activities: Proposed Collection; Comment Request; Information Collection Request Number 0820.08: Hazardous Waste Generator Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Hazardous Waste Generator Standards, EPA ICR Number 0820.08, OMB Control Number 2050–0035, current expiration date 9/30/01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 4, 2001.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–2001–HG1P–FFFFF to RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue N.W., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–2001–HG1P–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway 1, 1235 Jefferson Davis Highway, first floor, Arlington, VA. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. To review docket materials, the public must make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $.15/page.

Copies of the original ICR may be requested from the docket address and phone number listed above or may be found on the Internet. On the Internet, access the main EPA gopher menu and locate the directory: EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste (RCRA/hazardous waste-RCRA Subtitle C/generators.

Follow these instructions to access the information electronically: *http://www.epa.gov/epaoswer/hazwaste/id/icr-gen.htm.*

FTP: ftp.epa.gov.

Login: anonymous.

Password: your Internet address.

Path: /pub/epaoswer.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained in the RCRA Information Center (the RIC address is listed above in this section).

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington metropolitan area, call 703–412–9610 or TDD 703–412–3323. For technical information, contact Bryan Groce at 703–308–8750.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are generators of hazardous wastes; transporters who commingle wastes with different Department of Transportation descriptions; and importers or exporters of hazardous wastes.

Title: Hazardous Waste Generator Standards (OMB Control No. 2050–0035; EPA ICR No. 0820.07), expiring 9/30/01.

Abstract: In the Resource Conservation and Recovery Act (RCRA), as amended, Congress directed the U.S. Environmental Protection Agency (EPA) to implement a comprehensive program for the safe management of hazardous waste. The core of the national waste management program is the regulation of hazardous waste from generation to transport to treatment and eventual disposal, or from ''cradle to grave.'' Section 3001(d) of RCRA requires EPA to develop standards for small quantity generators. Section 3002 of RCRA among other things states that EPA shall establish requirements for hazardous waste generators regarding recordkeeping practices. Section 3002 also requires EPA to establish standards on appropriate use of containers by generators.

Finally, section 3017 of RCRA specifies requirements for individuals exporting hazardous waste from the United States, including a notification of the intent to export, and an annual report summarizing the types, quantities, frequency, and ultimate destination of all exported hazardous waste (additional reporting requirements for exporters and importers of recyclable materials are covered under ICR Number 1647.01).

This ICR targets five categories of informational requirements in part 262: hazardous waste determination requirements; pre-transport requirements for both large (LQG) and small (SQG) quantity generators (including the generator pre-transport requirements referenced in 40 CFR part 265), air emission standards requirements for LQGs (referenced in 40 CFR part 265, subparts I and J), recordkeeping and reporting requirements for LQGs and SQGs, and export requirements for LQGs and SQGs (i.e., notification of intent to export and annual reporting).

This collection of information is necessary to help generators and EPA (1) identify and understand the waste streams being generated and the hazards associated with them, (2) determine whether employees have acquired the necessary expertise to perform their jobs, and (3) determine whether LQGs have developed adequate procedures to respond to unplanned sudden or non-sudden releases of hazardous waste or hazardous constituents to air, soil, or surface water. This information is also needed to help EPA determine whether tank systems are operated in a manner that is fully protective of human health and the environment and to ensure that releases to the environment are managed quickly and efficiently.

Additionally, this information contributes to EPA's goal of preventing contamination of the environment from hazardous waste accumulation practices, including contamination from

equipment leaks and process vents. Export information is needed to ensure that (1) foreign governments consent to U.S. exported wastes, (2) exported waste is actually managed at facilities listed in the original notifications, and (3) documents are available for compliance audits and enforcement actions. In general, these requirements contribute to EPA's goal of preventing contamination of the environment.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

EPA would like to solicit comments to:

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

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The estimated number of likely respondents under this collection of information is 130,511 (17,581 LQGs and 112,930 SQGs). The bottom line annual reporting and recordkeeping burden to respondents under this collection of information is 475,802 hours. The average annual public reporting burden per response for LQGs under this collection of information is estimated to range from 21 minutes to 32.58 hours, and the average annual public reporting burden per response for SQGs is estimated to range from 21 minutes to 7.2 hours. The average annual recordkeeping burden per response for LQGs under this collection of information is estimated to range from 2.5 hours to 3.15 hours, and the average annual recordkeeping burden per response for SGQs is estimated to range from 1.2 to 1.65 hours. The total average annual burden cost for all generators, collectively is: $26,217,644 in labor costs; $23,892 in capital costs; and $30,396 in annual O&M costs. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 26, 2001.

Elizabeth Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 01–8129 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[SWH–FRL–6960–9]

Agency Information Collection Activities: Continuing Collection; Comment Request; Identification, Listing and Rulemaking Petitions Information Collection Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Identification, Listing and Rulemaking Petitions, ICR Number 1189.09, OMB Control Number 2050–0053, Expiration Date 9/30/01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 4, 2001.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–2001–IL2P–FFFFF to: RCRA Docket and Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically through the Internet to: *rcradocket@epa.gov.* Comments in electronic format should also be identified by the docket number F–2001–IL2P–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained in the RCRA Docket and Information Center.

Commenters should not submit any confidential business information (CBI) electronically. An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Docket and Information Center, located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RCRA Docket and Information Center is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. This notice and the supporting documents that detail the Identification, Listing and Rulemaking Petitions ICR are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For detailed information on specific aspects of this rulemaking, contact James Michael by phone at (703) 308–8610, by facsimile at (703) 308–0522, by mail at the Office of Solid Waste (5304W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 or by e-mail at michael.james@epa.gov. For general information, contact the RCRA Call Center at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

SUPPLEMENTARY INFORMATION:

Internet Availability: Today's notice and the supporting documents that

detail the Identification, Listing and Rulemaking Petitions ICR are available on the Internet. Follow these instructions to access the information electronically: *WWW:http://www.epa.gov/epaoswer/osw/hazwaste/id/petition/ index.htm*

FTP: ftp.epa.gov.

Login: anonymous.

Password: your Internet address.

Path:/pub/epaoswer.

Affected entities: Entities potentially affected by this action are rulemaking petitioners under 40 CFR 260.20(b), 260.21 and 260.22; owners and operators of facilities requesting a variance from classification as a solid waste under 40 CFR 260.30 –260.31 and 260.33; owners or operators of enclosed flame combustion devices requesting a variance under 40 CFR 260.32–260.33; generating facilities seeking a hazardous waste exclusion for certain types of wastes under 40 CFR 261.3 and 261.4; and generators and treatment, storage and disposal facilities requesting exemptions from listing as F037 and F038 wastes under 40 CFR 261.31(b)(2)(ii).

Title: Identification, Listing, and Rulemaking Petitions ICR Number 1189.09, expires September 30, 2001.

Abstract: Under 40 CFR 260.20(b), all rulemaking petitioners must submit basic information with their demonstrations, including name, address, and statement of interest in the proposed action. Under section 260.21, all petitioners for equivalent testing or analytical methods must include specific information in their petitions and demonstrate to the satisfaction of the Administrator that the proposed method is equal to or superior to the corresponding method in terms of its sensitivity, accuracy, and reproducibility. Under section 260.22, petitions to amend part 261 to exclude a waste produced at a particular facility (more simply, to delist a waste) must meet extensive informational requirements. When a petition is submitted, the Agency reviews materials, deliberates, publishes its tentative decision in the **Federal Register**, and requests public comment. EPA also may hold informal public hearings (if requested by an interested person or at the discretion of the Administrator) to hear oral comments on its tentative decision. After evaluating all comments, EPA publishes its final decision in the **Federal Register**.

40 CFR 260.30 –260.31, and 260.33 comprise the standards, criteria, and procedures for variances from classification as a solid waste for three types of materials, materials that are collected speculatively without sufficient amounts being recycled; materials that are reclaimed and then reused within the original primary production process in which they were generated; and materials which have been reclaimed, but must be reclaimed further before the materials are completely recovered. Under 40 CFR 260.32 and 260.33 a variance is available to owners or operators of enclosed flame combustion devices for classification as a boiler.

40 CFR 261.3 and 261.4 contain provisions that allow generators to obtain a hazardous waste exclusion for certain types of wastes. Facilities applying for these exclusions must either submit supporting information or keep detailed records. Under section 261.3(a)(2)(iv), generators may obtain a hazardous waste exclusion for wastewater mixtures subject to Clean Water Act regulation. Under section 261.3(c)(2)(ii)(C), generators may obtain an exclusion for certain non-wastewater residues resulting from high metals recovery processing (HTMR) or K061, K062 and F006 waste. In addition, under section 261.4(b)(6), generators of chromium-containing waste may obtain a hazardous waste exclusion under certain conditions.

Also addressed under this section is the shipment of samples between generators and laboratories for the purpose of testing to determine its characteristics or composition. Sample handlers who are not subject to DOT or USPS shipping requirements must comply with the information requirements of section 261.4(d)(2). When intended for treatability studies, hazardous waste otherwise subject to regulation under Subtitle C of RCRA is exempted from these regulations, provided that the requirements in section 261.4(e)–(f) are met, including the following information requests: initial notification, recordkeeping, reporting, and final notification. In addition, generators and collectors of treatability study samples also may request quantity limit increases and time extensions, as specified in section 261.4(e)(3).

40 CFR 261.31(b)(2)(ii) governs procedures and informational requirements for generators and treatment, storage and disposal facilities to obtain exemptions from listing as F037 and F038 wastes. Also under this section are regulations promulgated in 1990 under section 261.35(b) and (c) governing procedures and information requirements for the cleaning or replacement of all process equipment that may have come into contact with chlorophenolic formulations or constituents thereof, including, but not limited to, treatment cylinders, sumps, tanks, piping systems, drip pads, fork lifts, and trams.

EPA anticipates that some data provided by respondents will be claimed as Confidential Business Information (CBI). Respondents may make a business confidentiality claim by marking the appropriate data as CBI. Respondents may not withhold information from the Agency because they believe it is confidential. Information so designated will be disclosed by EPA only to the extent set forth in 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9, and in 48 CFR Chapter 15.

EPA would like to solicit comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

EPA estimates that the total respondent burden for this ICR

(#1189.09) is 20,802 hours per year at a cost of $2,046,564. This is an increase of 691 hours from the previously approved ICR (#1189.06). This increase in burden occurred for several reasons.

Based on its consultations with the EPA regions and authorized States, EPA decreased some of its estimates of the number of notifications and other paperwork submitted under the exclusions/exemptions at 40 CFR 261.3 and 261.4. In addition, EPA decreased its estimate of the number of facilities reading the parts 260 and 261 regulations. In ICR #1189.06, EPA estimated that 330 facilities would read the regulations each year; this estimate included facilities actively preparing/submitting paperwork, as well as those keeping records in support of their exemptions/exclusions. In this ICR, EPA revised this assumption, assuming that only facilities actively preparing/submitting paperwork would read the regulations (126 facilities/yr); facilities that already have been granted an exclusion or exemption likely would not re-read the regulations for that waste. These decreased universe estimates led to a decrease in the burdens for the corresponding paperwork requirements.

However, the burden decrease described above was offset because EPA increased the number of delisting petitions (from 15 per year in ICR #1189.06 to 20 per year in this ICR) and petitions for a variance from a solid waste (from 15 per year in ICR #1189.06 to 30 per year in this ICR). Again, EPA ascertained these estimates based on consultations with EPA regions and authorized States. EPA estimates that operation and maintenance (O&M) costs will be incurred for various activities. The largest of these are for sampling wastes for a delisting petition ($28,006), and preparing a statement as part of a rulemaking petition ($9,479). Total O&M costs for this ICR are $886,315 per year. EPA estimates that there will be no capital costs incurred. Finally, EPA estimates that the average annual burden per respondent ranges from 3.5 hours (preparation of a nonwastwater exemption) to 748 hours (preparation of a delisting petition).

Dated: March 26, 2001.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 01–8130 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00311; FRL–6775–3]

Partial Updating of TSCA Inventory Data Base, Production and Site Reports; Request for Comment on Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), EPA is seeking public comment and information on the following Information Collection Request (ICR): Partial Updating of TSCA Inventory Data Base, Production and Site Reports (EPA ICR No. 1011.05, OMB No. 2070–0070). This ICR involves a collection activity that is currently approved and scheduled to expire on June 30, 2001. The information collected under this ICR relates to the reporting of information to the EPA for purposes of periodically updating the Toxic Substances Control Act (TSCA) section 8(b) Inventory of Chemical Substances. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPPTS–00311 and administrative record number AR–234, must be received on or before June 4, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00311 and administrative record number AR–234 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general 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.

For technical information contact: Susan Krueger, Economics, Exposure and Technology Division (7406), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–1713; fax number: (202) 260–1661; e-mail address: krueger.susan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a manufacturer, processor, or importer of chemical substances, mixtures, or categories. Potentially affected categories and entities may include, but are not limited to:

Type of business	NAICS codes
Basic chemical manufacturing	3251
Resin, synthetic rubber and artificial synthetic fibers and filaments manufacturing	3252
Paint, coating, and adhesive manufacturing	3255
Pesticide, fertilizer, and other agricultural chemical manufacturing	3253
Other chemical product and preparation manufacturing	3259
Petroleum refineries	32411

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industry Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. 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 and Other Related Documents?

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. 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/.

B. Fax-on-Demand

Using a faxphone call (202) 401–0527 and select item 4087 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPPTS–00311 and administrative record number AR–234. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Non-Confidential 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. he telephone number for the Center is (202) 260–7099.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the 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–00311 and administrative record number AR–234 on 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.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified in Units III.A.1. and 2. 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–00311 and administrative record number AR–234. Electronic comments may also be filed online at many Federal Depository Libraries.

B. 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when 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 collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number and administrative record 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.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Partial Updating of TSCA Inventory Data Base, Production and Site Reports.

ICR numbers: EPA ICR No. 1011.05, OMB No. 2070–0070.

ICR status: This ICR is currently scheduled to expire on June 30, 2001. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: TSCA requires EPA to compile and keep current a complete list of chemical substances manufactured or processed in the United States. EPA updates this

inventory of chemicals every 4 years by requiring manufacturers, processors, and importers to provide production volume, plant site information, and site-limited status information. This information allows EPA to identify what chemicals are or are not currently in commerce and to take appropriate regulatory action as necessary. EPA also uses the information for screening chemicals for risks to human health or the environment, for priority-setting efforts, and for exposure estimates.

Responses to this collection of information are mandatory (see 40 CFR part 710). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The public burden for this collection of information is estimated to average 11.5 hour per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Manufacturers and importers of chemical substances, mixtures, or categories.

Estimated total number of potential respondents: 3,000.

Frequency of response: Once every 4 years.

Estimated average number of responses for each respondent: 1.

Estimated total burden hours: 34,500 hours.

Estimated total burden costs: $2,426,160.

VI. Are There Changes in the Estimates from the Last Approval?

There is no change in the total estimated respondent burden compared to that identified in the information collection request most recently approved by OMB.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: March 22, 2001.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 01–8134 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6961–6]

Gulf of Mexico Program; Policy Review Board Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92463, EPA gives notice of a meeting of the Gulf of Mexico Program (GMP) Policy Review Board (PRB).

DATES: The PRB meeting will be held on Wednesday, May 2, 2001, from 10:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the Sofitel Hotel, 425 N. Sam Houston Parkway, East, Houston, Texas 77060 (at Bush Intercontinental Airport), (281) 445–9000.

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda items will include: Review PRB Recommendations.

The meeting is open to the public.

Dated: March 27, 2001.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. 01–8132 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00708; FRL–6774–4]

EPA Analysis of the Impact of Wet Milling on the Cry9C Protein Content in Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This action is part of EPA's ongoing effort to make information publicly available and to seek public input on the potential health risks to humans from consuming foods made from StarLink corn. StarLink is a variety of Bt corn that has been genetically engineered to produce a protein, Cry9C, intended to be toxic to certain insect pests of corn. EPA is soliciting public comments on its analysis of the impact on wet milling on the Cry9C protein content in human food. The assessment concludes that use of StarLink corn in wet-milling results in no (or essentially no) residues of Cry9C protein in human food fractions - corn oil, corn syrup, alcohol, corn starch. This information would support a conclusion that there is no human health risk from eating such food fractions. This Notice also lists the specific experts in the processing of corn for food from whom EPA is specifically seeking comment. The Agency will take into consideration all comments received as it revises the wet milling assessment, and the Agency will announce the availability of the final assessment in the **Federal Register**. The Agency will also consider the final assessment as it makes its decision on the pending Aventis petition.

DATES: Comments, identified by docket control number OPP–00708, must be received on or before May 3, 2001.

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 OPP–00708 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Phil Hutton, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8260; fax number: (703) 308–7026; e-mail address: hutton.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are familiar with the wet milling of corn or who may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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 person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Electronically.* You may obtain electronic copies of this document, the EPA Analysis of the Impact of Wet Milling on the Cry9C Protein Content in Food, and certain other related documents that might be available electronically, from the EPA Internet Biopesticides Home Page at http://www.epa.gov/pesticides/biopesticides/. 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/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–00708. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

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 OPP–00708 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00708. 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 notice.
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. Background

A. What Action is the Agency Taking?

This action is part of EPA's ongoing effort to make information publicly available and to seek public input on the potential health risks to humans from consuming foods made from StarLink corn. StarLink is a variety of Bt corn that has been genetically engineered to produce a protein, Cry9C, intended to be toxic to certain insect pests of corn. Following a thorough scientific review of the safety of this product, EPA concluded that, other than an unresolved issue regarding the potential for Cry9C to pose an allergenic risk to humans, StarLink would pose no

risks to public health or the environment. Therefore, EPA issued a registration for the Cry9C protein and the genetic material necessary for its production (called a plant-pesticide) in 1998 to AgrEvo (now Aventis CropScience). EPA limited the registration by requiring that all StarLink corn only be used in domestic animal feed and for industrial purposes. EPA did not approve the use of StarLink corn in foods destined for human consumption because of unanswered questions about the potential allergenicity of the Cry9C protein.

Because of Aventis' continuing interest in obtaining approval for use of StarLink in the production of human food and the novel scientific issues raised concerning the assessment of potential allergenicity, EPA called a meeting of the FIFRA Scientific Advisory Panel (SAP), on February 29, 2000 regarding Cry9C protein. (The SAP provides independent scientific advice and recommendations to the Agency as to the impact on health and the environment of regulatory actions concerning pesticides and pesticide-related issues.) The February 29, 2000 SAP report stated that it could not be determined whether or not Cry9C is a potential food allergen.

In September 2000, Cry9C DNA was detected in a finished food product - taco shells. Subsequently, the DNA and protein have been found in corn grain and other corn products in the food supply. These detections indicated that, despite the EPA restrictions, some quantities of StarLink corn had directly entered the human food chain.

On October 12, 2000, Aventis requested that the registration for their StarLink corn product be voluntarily cancelled. As a result, StarLink corn is not authorized for planting in future years. On October 25, 2000, Aventis amended its petition for a food tolerance exemption under the Federal Food, Drug, and Cosmetic Act (FFDCA) to ask for a temporary tolerance of 4 years to cover any Cry9C protein and Cry9C DNA that may be present in human food made from StarLink corn planted in 1998, 1999, and 2000. Aventis submitted additional information with its petition to support its contention that the Cry9C protein posed no allergenic risk to public health. EPA convened another SAP meeting on November 28, 2000 to consider the question of the potential of the Cry9C protein to be an allergen, whether there is an adequate amount of the protein in corn to cause sensitization, what amount of Cry9C might be in the human food supply if this time limited tolerance exemption were to be approved, and reports of adverse incidents for alleged human exposure. More information including the Aventis submission, EPA's papers for SAP review, background information, and the SAP final reports can be found on the following web sites:

http://www.epa.gov/pesticides/biopesticides/cry9c/index.htm

http://www.epa.gov/scipoly/sap/index.htm

The final report from the November 28, 2000 SAP meeting, which was issued on December 1, 2000, expressed the consensus of the Panel that while Cry9C has a ''medium likelihood'' to be a food allergen, the combination of the expression level of the protein and the amount of corn found to be commingled poses a ''low probability'' to sensitize individuals to Cry9C.

The Panel report noted that the likelihood of the protein being detected in different corn products varied considerably, especially depending on the method of processing and whether the product was from white or yellow corn. The Cry9C DNA was only engineered into certain yellow corn varieties. The SAP report called on EPA to only include in our dietary assessment those ingredients from corn that contain protein after processing. The SAP report states that items such as corn syrup, corn oil, and starch contain virtually no protein.

In follow-up to the SAP report, EPA collected and evaluated information on the impacts of the wet milling process on levels of protein in finished human food products. The assessment concludes that use of StarLink corn in wet-milling results in no (or essentially no) residues of Cry9C protein in human food fractions - corn oil, corn syrup, alcohol, corn starch. This information would support a conclusion that there is no human health risk from eating such food fractions. EPA is now soliciting public comments on its analysis of the impact of wet milling on the Cry9C protein content in food.

In addition to the general public, The Agency will specifically contact and request comments from the following experts in the processing of corn for food:

1. Dr. R. Carl Hoseney of R and R Research in Manhattan, KS.
2. Dr. Barry Jacobsen of Montana State University in Bozeman, Montana.
3. Dr. David Lineback of the University of Maryland in College Park, Maryland.
4. Dr. Llyod Rooney of Texas A&M University in College Station, Texas.

The Agency will take into consideration all comments received and publish the availability of its final wet milling assessment in the **Federal Register**. The final wet milling assessment will also be considered as part of EPA's overall review of Aventis' pending petition for an exemption for Cry9C in human food, PP 9F05050.

B. What is the Agency's Authority for Taking this Action?

The Federal Food, Drug, and Cosmetic Act provides the legal authority for EPA to take this action.

List of Subjects

Environmental protection, plant-incorporated protectants.

Dated: March 7, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division.

[FR Doc. 01–8138 Filed 4–2–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6961–1]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given of a proposed Prospective Purchaser Agreement and Covenant Not To Sue, executed between the United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), and Pulaski Industrial Corporation (''Purchaser'') in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601–9675, as amended (''CERCLA''). The proposed agreement will allow reuse of an abandoned industrial facility associated with the Metcoa Radiation Superfund Site (''Site'') in Pulaski, Lawrence County, Pennsylvania, and will resolve certain potential EPA claims under section 107 of CERCLA, 42 U.S.C. 9607, against the Purchaser. The proposed agreement is now subject to public comment, after which the United States may modify or withdraw its consent if comments received disclose facts or circumstances indicating that the proposed agreement is inappropriate, improper or inadequate.

The proposed agreement concerns a 21.74 acre property (''the Property'') located within the approximately 22.5

acre Site. The Property is located on Route 551 and Metallurgical Way, approximately one-half mile north of the center of the village of Pulaski, and Route 208 in Pulaski, Lawrence County, Pennsylvania. The Property formerly was occupied by the Metallurgical Corporation of America, which conducted a metal reclamation business there between 1976 and 1983. Response actions and long term remedial actions have been conducted or overseen by EPA, the Nuclear Regulatory Commission (''NRC'') and the Commonwealth of Pennsylvania at the Site since 1985. In 1997, EPA entered a Consent Decree with 187 parties, requiring them to conduct certain response actions to cleanup the Site. In March 2000, EPA issued a notice of completion to the parties stating that the required response actions had been performed satisfactorily. Under the terms of the proposed agreement, the Purchaser is required to cooperate with and provide access to EPA for any response activities on the Property, and is subject to certain property use restrictions.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed agreement. Comments should be submitted to Suzanne Canning, Regional Docket Clerk (3RC00), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103, or by e-mail to *canning.suzanne@epa.gov*, and should refer to the ''Metcoa Radiation Superfund Site—Pulaski Industrial Corp. Prospective Purchaser Agreement'' and ''EPA Docket No. CERC–PPA–2001–0001.'' The proposed agreement and additional background information relating to it may be examined and/or copied at the above EPA office. A copy of the proposed agreement may be obtained by mail from Suzanne Canning at the above address.

FOR FURTHER INFORMATION CONTACT: Humane L. Zia (3RC41), Assistant Regional Counsel, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; phone: (215) 814–3454.

Dated: March 26, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–8131 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6960–3]

Supplemental Notice of Proposed Administrative De Minimis Settlement, and Notice of Proposed Second Administrative De Minimis Settlement, Pursuant to Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act, and Notice of Public Meeting and Proposed Settlement Pursuant to Section 7003(d) of the Resource Conservation and Recovery Act; In Re: Lenz Oil Services, Inc., Site, Lemont, IL

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), and section 7003(d) of the Resource Conservation and Recovery Act, as amended (''RCRA''), the EPA is giving this supplemental notice of a proposed administrative *de minimis* settlement, and is giving notice of a proposed second administrative *de minimis* settlement, under section 122(h)(1) of CERCLA and section 7003 of RCRA concerning the Lenz Oil Services, Inc., site (''Site'') in Lemont, Illinois. The United States Department of Justice has approved of these settlements, subject to review and comment by the public as provided by this notice. If the public requests a meeting pursuant to RCRA section 7003(d), EPA will hold a public meeting in the vicinity of the Site to discuss these settlements.

Both of these settlements resolve Environmental Protection Agency (EPA) claims under section 107(a) of CERCLA and section 7003 of RCRA, and a State of Illinois claim under section 22.2a of the Illinois Environmental Protection Act. The supplemental notice to the first settlement resolves claims against 15 parties who timely executed binding certifications of their consent to the settlement. The second settlement resolves claims against 12 parties who timely executed binding certifications of their consent to the second settlement. U.S. EPA identified 6 of these 27 settlers in the October 28, 1998, notice of the original *de minimis* settlement, but now requires additional public notice due to clarifications to the name of the party or the settling amount. The Supplemental Information Section below identifies the parties executing binding certifications of their consent to these settlements.

The supplemental notice for the first settlement identifies 15 settling parties who will pay a total of $118,840.17 to the Hazardous Substances Superfund, Lenz Oil Services, Inc., Special Account, and a total of $48,462.09, to the State of Illinois for costs incurred relating to past Site response actions. The second settlement identifies 12 parties who will pay a total of $91,701.28 to the Hazardous Substances Superfund, Lenz Oil Services, Inc., Special Account, and a total of $6,787.05, to the State of Illinois for costs incurred relating to past Site response actions.

Each settling party must pay an amount specified for that party in the settlement based on the volume of waste that party contributed to the Site; except as to 2 parties in this notice, who are paying a lesser amount based on an analysis of their ability to pay the settlement. Payments received shall be applied, retained or used to finance the response actions taken or to be taken at or in connection with the Site, including payments for past response costs, future oversight costs and/or other future costs of conducting the response.

The first settlement was modified as specified in an errata sheet to correct certain errors in the settlement documents and to supplement settlement terms relating to federal agency settlers. Consequently, following the public comment period, we are providing each supplemental notice party with an opportunity to ratify the errata changes, or to withdraw from the settlement without penalty.

For 30 days following the date of publication of this notice, and at the public meeting identified above, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the Lemont Town Hall, 418 Main Street, Lemont, Illinois and at the EPA, Region 5, 7th Floor File Room, 77 West Jackson Boulevard, Chicago, Illinois.

DATES: You must submit comments on or before May 3, 2001.

ADDRESSES: The proposed settlement, including the errata sheet, and additional background information relating to the settlement are available for public inspection at the Lemont Town Hall, 418 Main Street, Lemont, Illinois, and at the EPA, Region 5, 7th

Floor File Room, 77 West Jackson Boulevard, Chicago, Illinois. In addition, you may obtain a copy of the proposed settlement from Stuart P. Hersh, Associate Regional Counsel (C–14J), Region V, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, or by calling (312) 886–6235. Comments should reference the Lenz Oil Services Inc., Superfund Site, Lemont, Illinois and EPA Docket No. V–W–98–C–440 and should be addressed to Stuart P. Hersh, Associate Regional Counsel (C–14J), Region V, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

SUPPLEMENTARY INFORMATION: The following parties have executed binding certifications of their consent to participate in the first settlement.

Respondents

Avenue Motor Sales; Crosstown Services (n/k/a Laidlaw Transit); Exhaust Works, The; Diller-Rod, Inc.; Jimmy Diesel, Inc.; McHenry Ready-Mix Co.; Oak Park & River Forest High School; Oehler Automotive & Leasing; Sadowski, Jack, consolidated with Lambert Jones; Schaumburg Transportation n/k/a Laidlaw Transit); Silica Sand Transport; Taylor Motor Sales; Tinley Auto Repair; Village of Carpentersville; and Waspi Trucking.

The following parties have executed binding certifications of their consent to participate in the second settlement.

Respondents

Batavia Standard; Bauer Buick; Burren Transfer; Chanute Air Force Base; Community Unit School District 300; Everpure (a/k/a Culligan); J/B Industries; J&S Plastics; Knaack Manufacturing Co.; Montgomery Standard; Reber and Foley Standard; and Vaia Auto Specialists.

The following Respondents from those listed above were also, incorrectly, identified as settlers in the October 28, 1998, public notice to the first settlement.

Respondents

Bauer Buick; Vaia Auto Specialists, Inc.; Crosstown Services (incorrectly listed as Crosstown Service Center); Diller-Rod; Sadowski, Jack (Lambert Jones); and Waspi Trucking.

FOR FURTHER INFORMATION CONTACT: Stuart P. Hersh, Associate Regional Counsel (C–14J), Region V, 77 West Jackson Boulevard, Chicago, Illinois, 60604, or call (312) 353–9484.

Authority: The Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601–9675, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901–6992, and the Illinois Environmental Protection Act, as amended, 415 ILCS section 5/22.2a.

Dated: March 13, 2001

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 01–8128 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE BOARD

[No. 2001–N–8]

Submission for OMB Review; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) hereby gives notice that it has submitted the information collection entitled ''Members of the Banks'' to the Office of Management and Budget (OMB) for review and approval of a three-year extension of the OMB control number, which is due to expire on April 30, 2001.

DATES: Interested persons may submit comments on or before May 3, 2001.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Board, Washington, DC 20503. Address requests for copies of the information collection and supporting documentation to Elaine L. Baker, Secretary to the Board, by telephone at 202/408–2837, by electronic mail at bakere@fhfb.gov, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Jonathan F. Curtis, Senior Financial Analyst, Market Research and System Analysis Division, Office of Policy, Research and Analysis, by telephone at 202/408–2866, by electronic mail at curtisj@fhfb.gov, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of Information Collection

Section 4 of the Federal Home Loan Bank Act (Bank Act) establishes the eligibility requirements for an institution to become a member of a Federal Home Loan Bank (FHLBank). *See* 12 U.S.C. 1424. Part 925 of the Finance Board's regulations (membership regulation) implements section 4 of the Bank Act. *See* 12 CFR part 925. The membership regulation provides uniform application requirements an applicant for FHLBank membership must meet and review criteria a FHLBank, and where appropriate, the Finance Board, must apply to determine whether the applicant satisfies the statutory and regulatory membership requirements. More specifically, the membership regulation implements the statutory eligibility requirements and provides guidance to an applicant on how it may satisfy the requirements. The regulation authorizes a FHLBank to approve or deny each membership application and permits an applicant to appeal a FHLBank denial to the Finance Board.

The information collection, which is contained in § 925.2 through § 925.31 of the membership regulation, 12 CFR 925.2–925.31, is necessary to enable the FHLBanks and, where appropriate, the Finance Board, to determine whether: (i) An institution satisfies the statutory and regulatory membership requirements; (ii) an annual adjustment to a member's minimum FHLBank stockholding requirement is necessary; (iii) a member may withdraw; and (iv) a member can transfer to a different FHLBank district.

The OMB number for the information collection is 3069–0004. The OMB clearance for the information collection expires on April 30, 2001.

The likely respondents are institutions that are or want to become members of a FHLBank.

B. Burden Estimate

The Finance Board estimates that a total annual average of 865 institutions will apply for FHLBank membership, with 1 application per institution. The estimate for the average hours per application is 21 hours. The Finance Board estimates that a total annual average of 1 institution will submit an appellate application to the Finance Board. The estimate for the annual hour burden for institutions applying for FHLBank membership is 18,175 hours (865 applicants × 1 application × 21 hours + 1 appellate application × 10 hours).

The Finance Board estimates a total annual average of 7,577 FHLBank members will submit a capital stock calculation worksheet, with 1 response per member. The estimate for the average hours per worksheet is 0.6 hours. The estimate for the annual hour burden for capital stock calculation

worksheets is 4,547 hours (7, 577 members × 1 worksheet × 0.6 hours).

The Finance Board estimates a total annual average of 5 members will file a notice of intent to withdraw from membership, with 1 notice per member. The estimate for the average hours per notice is 0.6 hours. The estimate for the annual hour burden for withdrawal notices is 3 hours (5 members × 1 notice × 0.6 hours).

The Finance Board estimates a total annual average of 5 members will request a transfer of membership to another FHLBank district, with 1 request per member. The estimate for the average hours per request is 3.5 hours. The estimate for the annual hour burden for transfer requests is 17.5 hours (5 members × 1 request × 3.5 hours).

The Finance Board estimates that the total annual hour burden for all respondents is 22,742.5 hours.

C. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), the Finance Board published a request for public comments regarding this information collection in the **Federal Register** on December 22, 2000. *See* 65 FR 80863 (Dec. 22, 2000). The 60-day comment period closed on February 20, 2001. The Finance Board received no public comments. Written comments are requested on: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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 may be submitted to OMB in writing at the address listed above.

Dated: March 28, 2001.

By the Federal Housing Finance Board.

James L. Bothwell,

Managing Director.

[FR Doc. 01–8079 Filed 4–2–01; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 17, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Todd R. Nicklaus, Rothschild, Wisconsin, and Greg P. Nicklaus, Arbor Vitae, Wisconsin; to acquire additional voting shares of River Valley Bancorporation, Inc., Merrill, Wisconsin, and thereby indirectly acquire additional voting shares of River Valley State Bank, Rothschild, Wisconsin.

Board of Governors of the Federal Reserve System, March 28, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–8075 Filed 4–2–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 18, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Michael Edwin Aldredge, Bellville, Texas; to acquire additional voting shares of Fayetteville Bancshares, Inc., Fayetteville, Texas, and thereby indirectly acquire additional voting shares of Fayetteville Bank, Fayetteville, Texas.

Board of Governors of the Federal Reserve System, March 29, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–8152 Filed 4–2–01; 8:45 am]

BILLING CODE 6210–01–S

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 April 27, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Persons Banking Company, Inc., Lithonia, Georgia; to acquire 100 percent of the voting shares of The Farmers Bank, Forsyth, Georgia.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Marshall & Ilsley Corporation, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of M&I Bank of Mayville, Mayville, Wisconsin (in organization).

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Centennial Bank Holdings, Inc., Eaton, Colorado; to acquire 100 percent of the voting shares of Berthoud Bancorp, Inc., Berthoud, Colorado, and thereby indirectly acquire voting shares of The Berthoud National Bank, Berthoud, Colorado.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. CB&T Bancshares, Inc., Vivian, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank and Trust Company of Vivian, Vivian, Louisiana.

2. Henderson Citizens Bancshares, Inc., Henderson, Texas, and Henderson Citizens Delaware Bancshares, Inc., Dover, Delaware; to acquire 100 percent of the voting shares of Rusk County Bancshares, Inc., Henderson, Texas, and thereby indirectly acquire voting shares of Rusk Delaware Financial Corporation, Dover, Delaware, and Peoples State Bank, Henderson, Texas.

E. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. North Cascades Bancshares, Inc., Chelen, Washington; to acquire up to 35 percent of the voting shares of bankcda, Coeur d'Alene, Idaho (in organization).

Board of Governors of the Federal Reserve System, March 28, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–8074 Filed 4–2–00; 8:45 am]

BILLING CODE 6210–01–S

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 April 27, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. First Merchants Corporation, Muncie, Indiana; to acquire 100 percent of the voting shares of Francor Financial, Inc., Wabash, Indiana, and thereby indirectly acquire voting shares of Frances Slocum Bank and Trust Company, Wabash, Indiana.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. TRB Bancorp, Inc., Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Greenbelt Bancshares, Inc., Quanah, Texas, and thereby indirectly acquire voting shares of The Security National Bank of Quanah, Quanah, Texas.

Board of Governors of the Federal Reserve System, March 29, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–8153 Filed 4–2–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–21–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Information Collection to Establish Community Assistance Panels (CAPs) OMB No.0923–0007—Extension—The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and its 1986 Amendments, The Superfund Amendments and Reauthorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances in the environment. To facilitate this effort, ATSDR seeks the cooperation of the community being evaluated through direct communication and interaction. Direct community involvement is required to conduct a comprehensive scientific study and to effectively disseminate specific health information in a timely manner. Also, this direct interaction fosters a clear understanding of health issues that the community considers to be of importance and establishes credibility for the agency. The Community Assistance Panel nominations forms are completed by individuals in the community to nominate themselves or others for participation on these panels. This request is for a three-year extension of the current OMB approval of the Community Assistance Panel nominations form. The total annual burden hours for this collection is 25.

Respondents	Number of respondents	Number of responses/ respondents	Avg. burden per response (in hrs.)
General Public	150	1	.1666

Dated: March 28, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–8095 Filed 4–2–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–20–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Preventing Latex Allergy Among Non-Healthcare Workers—New—The mission of the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC) is to promote ''safety and health at work for all people through research and prevention.'' In order to carry out this goal effectively and efficiently, NIOSH and the occupational safety and health community implemented the National Occupational Research Agenda (NORA) in 1996. NORA is the first step in an ongoing, synergistic effort by the various institutions of the occupational safety and health community to identify and research the most important workplace safety and health issues. In order to accomplish the NORA objectives in preventing latex allergy, NIOSH is conducting health communication research to determine the most effective means of communicating the NIOSH recommendations for preventing latex allergy.

Allergy to natural rubber latex (NRL) has become a significant health risk among healthcare workers and other persons using latex gloves in the course of their work [NIOSH 1997; Turjanmaa et. al. 1996; Watts et. al. 1998]. A number of studies indicate that levels of latex sensitization in healthcare workers ranges from 5–12 percent [Liss and Sussman 1999]. One study indicated that the prevalence of latex sensitivity among 1,351 healthcare workers was 12.1 percent; and of that same 1,351 workers, 60 percent reported work-related symptoms [Liss et. al. 1997]. Despite the numerous studies performed in this population, little is known about the non-healthcare worker occupations. Occupational asthma and symptoms of latex allergy have been reported in select groups including hairdressers, workers at a latex glove manufacturing plant, and workers at a latex doll manufacturing plant. Prevalence rates up to 11 percent have been reported in these studies (11 percent and 9 percent, respectively, in the latter two studies) [Orfan et. al. 1994; Tarlo et. al. 1990; van der Walle and Brunsveld 1995). Although the prevalence rate for other non-healthcare worker populations is unknown, these studies indicate that workers exposed to latex gloves or products containing latex may also be at risk for latex allergy.

In 1997, NIOSH published an ALERT concerning the risk of latex allergy in the workplace [NIOSH 1997]. This Alert provided specific recommendations to workers for the prevention of latex allergy and was distributed to workplaces most likely to contain latex exposure (i.e., care establishments). Since occupations reporting less frequent use of latex gloves or exposure to latex-containing products may also be at risk for latex allergy, it is important to design appropriate health interventions for these occupational groups as well. Therefore, the overall objective of this study is to develop a health intervention that 1) effectively communicates the NIOSH recommendations for preventing latex allergy to the appropriate, at-risk non-healthcare worker occupations and 2) promotes the use of the recommendations through corresponding attitude and behavior change.

To accomplish this task, we propose to conduct a systematic, communication theory-based set of studies with a brochure adapted from the NIOSH Alert on latex allergy as the primary attitude concept. These experiments will be targeted at five non-healthcare worker occupational groups (hair dressers, daycare workers, police officers, food handlers, and housekeeping personnel). The framing postulate of the Prospect Theory and the Elaboration Likelihood Model will serve as the basis of the study [Tversky and Kahneman 1981; Petty and Cacioppo 1986] in which the combined effect of message framing and message expectancy on elaboration likelihood will be assessed. Specifically, participants will be randomly assigned to the conditions of a 2 (message framing: positive vs. negative), 2 (message expectancy: positive vs. negative), 2 (argument quality: strong vs. stronger) factorial design and given a pretest, brochure with the appropriate test variables, and post test. In addition, the participants will be surveyed for a history of latex glove usage, allergy, latex allergy, or dermatitis in either themselves or their family members to determine if a history of allergy or glove usage predisposes them to be highly involved with the subject of latex allergy. Finally, the effect of the intervention on receiver attitude toward latex allergy and corresponding use of NIOSH recommendations one month following the intervention will be determined. The study will include several phases. First, effective communication variables will be identified in the pretesting phase and incorporated into test brochures. In addition, pre-test and post-test surveys will be pretested. A total of 160 participants will be recruited for the pretesting phase. In the second phase, the pilot test, the effect of message framing and message expectancy on elaboration likelihood will be assessed in a small scale, laboratory study. This pilot test will be conducted with a sample of university students (N = 300) who occasionally to intermittently wear latex gloves. Conducting the first study in the laboratory setting allows for consistent control over external variables during message pretesting, implementation, and testing. The knowledge obtained from this study will be used to improve the versions of the brochure to be used in the last phase, one study for each of the five occupational groups (a total of five studies). The goal of each study will be

to determine the effect of message framing and message expectancy manipulations in increasing the receiver's elaboration about latex allergy prevention among five different occupational groups (N = 300 per group or 1,500 total participants). In addition, change in attitude and behavior will be assessed one month after exposure to the brochure. These combined studies will test the use of message framing and contrasts in message expectancy in applied health communication research. Specifically, the studies will assess the effectiveness of these communication variables in influencing attitude, intentions, and behavior concerning the prevention of latex allergy. The results and conclusions drawn from this project will be used to develop a health communication template based on message framing and increased systematic message processing.

Overall, this study will contribute significantly to the knowledge concerning application of the message framing theory, provide NIOSH with specific recommendations for effective health communication, and provide a template for future health interventions. In addition, this study will identify effective methods of communicating health and safety messages to those populations not normally reached by NIOSH.

The total annual burden for this data collection is 1,820 hours.

Respondents	Phase	Number of Respondents	Number of Responses/ Respondent	Average Burden per Response
Daycare workers, housekeeping personnel, foodservice personnel, hairdressers, police officers.	Pretest Phase 1	150	1	60/60
Daycare workers, housekeeping personnel, foodservice personnel, hairdressers, police officers.	Pretest Phase II	10	1	120/60
Daycare workers, housekeeping personnel, foodservice personnel, hairdressers, police officers.	Pilot Test	300	1	30/60
Daycare workers, housekeeping personnel, foodservice personnel, hairdressers, police officers.	Main Study	1,500	2	15/60
Daycare workers, housekeeping personnel, foodservice personnel, hairdressers, police officers.	Followup Study	1,500	1	30/60

Dated: March 28, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–8096 Filed 4–2–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control And Prevention

[60 Day–01–28]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506 (c)(2)(A) of the Paperwork reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Anne E. O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects: Factors and Strategies that are Effective in Establishing Policy and Environmental Interventions Designed to Promote Good Nutrition and Physical Activity—New—The National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC), proposes to conduct a study to determine what is needed to implement and sustain policy and environmental interventions to promote physical activity and good nutrition for cardiovascular health. Policy and environmental intervention approaches to promoting physical activity and good nutrition are a new paradigm shift for intervention activities, therefore, research is required to determine what is needed to implement and sustain these types of interventions.

The proposed study will be conducted in three phases. *Phase 1 Background Information:* A review will be conducted of the literature of national conferences to identify experts

in the field of policy and environmental interventions to promote physical activity and good nutrition. *Phase 2 Expert Interviews:* State representatives, recognized experts, and others will be contacted via telephone to gather detailed information on both successful and promising environmental and policy interventions. *Phase 3 Key Informant Interviews:* Key informant interviews will be conducted with selected interventions and programs that were indicated in Phases 1 and 2 to identify activities, methods, and lessons learned for their successful implementation. We will summarize and evaluate interview results and disseminate to cardiovascular health funded States to assist in designing policy and environmental interventions to promote physical activity and good nutrition.

The total cost estimate is $ 16,551 over a three-month period.

Respondents	Number of respondents	Responses/ respondent	Average burden of response in hrs.	Total burden (hrs.)
Expert Interviews	40	1	15/60	10
Key Informant Interviews	25	1	30/60	12.5
Total				22.5

Dated: March 28, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–8097 Filed 4–2–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01029]

Notice of Availability of Funds for the Public Health Foundation To Improve the Nation's Public Health Infrastructure Through Applied Research, Training, and Technical Assistance

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program entitled ''Improving the Nation's Public Health Infrastructure.'' This program addresses the ''Healthy People 2010'' priority focus area of Public Health Infrastructure. For a copy of ''Healthy People 2010,'' visit the web site—*http://www.health.gov/healthypeople.*

The purpose of this cooperative agreement program is to improve the Nation's public health infrastructure and improve the performance of public health agencies by:

1. Developing and/or implementing strategies to encourage the development and use of standards for public health organizations, the public health workforce, and public health information systems;

2. Developing and/or implementing strategies to inform the public health community about effective approaches to improving public health organizations, the public health workforce, and public health information systems; and

3. Conducting activities to encourage the public health community to implement the most effective approaches to improving public health organizations, the public health workforce, and public health information systems.

B. Eligible Applicants

Assistance will be provided only to the Public Health Foundation (PHF) . No other applications are solicited. PHF is uniquely qualified to be the recipient organization for the following reason:

PHF previously completed the Community Health Status Indicators Project, in which it is the only organization that has access to the 10 years of disaggregated data used to develop the project. Using this disaggregated data from the Community Health Status Indicators reports and other relevant sources, only PHF will be able to conduct and/or publish continued applied research to strengthen the science base of public health practice with this critical project. This is the most important requirement of this cooperative agreement.

Note: Public Law 104–65 states that an organization, described in section 501(c) (4) of the Internal Revenue Code of 1986, that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $200,000 is available in FY 2001 to fund this award. It is expected that the award will begin on or about June 1, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds. During the first year, funds are expected to be available to support the projects/activities listed in Part D.1. below as follows:

1. Core Activities $ 50,000
2. Special Projects 1, 2, 6, 7, and 8 $150,000

Use of Funds

Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased, with appropriate justification, including cost comparison of purchase with lease. Although contracts with other organizations are allowable, the recipient must perform a substantial portion of activities for which funds are requested. Cooperative agreement funds may not supplant existing funds from any other public or private source. Funds may not be expended for construction, renovation of existing facilities, or relocation of headquarters, affiliates, or personnel.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed under 1. (Recipient Activities) , and CDC will be responsible for the activities listed under 2. (CDC Activities) .

1. Recipient Activities

Recipients may undertake the following types of activities:

A. Core Activities

(1) Develop and maintain an effective governance structure within the organization that provides for effective leadership and day-to-day fiscal and operational management by competent full-time management staff.

(2) Conduct regular and ongoing assessments of the organization and its progress toward meeting its strategic

and operational goals and regularly communicate regarding progress toward meeting those goals and objectives.

(3) Establish and maintain an effective information and communication system within its headquarters, which:

(a) Is accessible to its constituents and staff through a continuous, high-speed Internet connection;

(b) Facilitates electronic exchange of computer-generated documents among organization staff, its constituents, and local, tribal, state, and federal public health officials;

(c) Facilitates confidential twenty-four/seven email exchange among local, tribal, state, and federal public health officials; and

(d) Provides twenty-four/seven public access to a website that contains current and relevant public health information, tools, and access to training programs.

(4) Ensure the implementation and periodic assessment of an organization-wide communication plan which supports the ongoing efforts of the organization to communicate with its constituents.

(5) Ensure the highest organizational standards of professional competency, advocacy, recognition and visibility, knowledge source, and inclusive membership are maintained.

B. Special Projects

(1) Collaborate with CDC and other public health partners to refine, field-test, and encourage the use of public health system Performance Standards, and develop and/or improve their capacity to utilize information from that system to influence public health policy decisions at the local, tribal, state, and federal level, including (but not limited to) developing, field-testing, and finalizing a verification process and protocols for improving the validity, reliability, and comparability of the data reported by the demonstration sites participating in the National Public Health Performance Standards Program (NPHPSP) .

(2) Ensure implementation of public health system Performance Standards to support the Essential Public Health Services #4-inform, educate, and empower people about health issues-by encouraging collaboration and communication among public health systems throughout the Nation, including (but not limited to) publicizing the NPHPSP and state performance management systems and their relationship to the national program to public health policy-makers, practitioners, and other stakeholders.

(3) Collaborate with CDC and other public health and non-traditional partners to improve the competency of the public health workforce, including (but not limited to) elements outlined in a global and national implementation plan for public health workforce development. These elements include: monitoring workforce composition, identifying competencies and developing related curricula, designing an integrated learning delivery system, identifying incentives to assure competency, and conducting evaluation and research in workforce issues.

(4) Collaborate with CDC and other public health partners to improve public health information and communication systems, including (but not limited to) the development and/or implementation of standards for public health data and information systems, the development and dissemination of information supporting the need and the mechanisms for engaging in the standards development process, and/or improvement of the capacity of public health agencies to quickly receive and transmit information regarding chemical or biological terrorism events or other urgent public health threats.

(5) Convene key public health system officials to review/modify priorities for improving the performance of public health organizations, the public health workforce, and/or public health information and communication systems.

(6) Collaborate with CDC and other public health partners to improve the Nation's community public health assessment and planning systems, including (but not limited to) encouraging, providing assistance to, and collaborating in the development, refinement, and use of available community public health improvement tools, and translating public health data for use by public health policy-makers and practitioners with their communities in collaboration with the Health Resources and Services Administration (HRSA) Community Health Status Indicators project.

(7) Collaborate with CDC and other public health partners to provide technical assistance to public health agencies and communities for assessing public health needs, identifying public health assets, developing benchmarks, establishing health improvement plans, and improving the health of communities, building upon the 10 years of disaggregated data used in developing the Community Health Status Indicators reports.

(8) Using the 10 years of disaggregated data from the Community Health Status Indicators reports and other relevant sources, collaborate with CDC and other public health partners to conduct and/or publish research to strengthen the science base of public health practice, including (but not limited to) the following:

(a) Identifying the most effective organizational components of public health systems;

(b) Determining the extent to which public health practitioners have access to current information about Performance Standards programs and determine the most effective means of improving access to that information;

(c) Ensuring the reliability and validity of the Performance Standards monitoring tool;

(d) Analyzing the results of Performance Standards monitoring; and

(e) Evaluating the impact of project activities on the performance of public health organizations, the public health workforce, and/or public health information and communication systems.

(9) Collaborate with CDC to improve the development of environmental and occupational public health policy, improve the competency of environmental and occupational public health workers, and broaden and improve the practice of environmental and occupational public health.

(10) Collaborate with CDC to improve the capacity of public health systems to effectively respond to chemical and/or biological terrorism, including collaborating with other response agencies to protect the public and exposed workers.

(11) Collaborate with CDC to improve the understanding and use of law by public health systems as a tool for effective public health practice, including (but not limited to) the following:

(a) Developing and/or conducting public health law training;

(b) Conducting applied research in public health law and;

(c) Developing and/or disseminating information about public health laws relevant to local public health agencies and systems.

2. CDC Activities

A. Core Activities

(1) Collaborate with funded organization(s), as appropriate, in assessing progress toward meeting strategic and operational goals and objectives.

(2) Collaborate with funded organization(s), as appropriate, in the development and maintenance of information and communication systems.

B. Special Projects

(1) Collaborate with funded organization(s) to further refine, field-

test, and encourage the use of public health system Performance Standards, and develop and/or improve the capacity to utilize information from that system to influence public health policy decisions at the local, tribal, state, and federal level.

(2) Collaborate with funded organization(s) to ensure implementation of public health system Performance Standards to support the Essential Public Health Services #4.

(3) Collaborate with funded organization(s) to improve the competency of the public health workforce.

(4) Collaborate with funded organization(s) to improve public health information and communication systems.

(5) Collaborate with funded organization(s) to identify key public health officials to review/modify priorities for improving the performance of public health organizations, the public health workforce, and/or public health information and communication systems.

(6) Collaborate with funded organization(s) to improve the Nation's community public health assessment and planning systems.

(7) Collaborate with funded organization(s) to provide technical assistance to public health agencies and communities.

(8) Collaborate with funded organization(s) to conduct and/or publish research to strengthen the science base of public health practice.

(9) Collaborate with funded organization(s) to improve the development of environmental and occupational public health policy, improve the competency of environmental and occupational public health workers, and broaden and improve the practice of environmental and occupational public health.

(10) Collaborate with funded organization(s) to improve the capacity of public health systems to effectively respond to chemical and/or biological terrorism, including collaborating with other response agencies to protect the public and exposed workers.

(11) Collaborate with funded organization(s) to improve the understanding and use of law by public health systems as a tool for effective public health practice.

E. Application Content

The application must be developed in accordance with PHS 5161–1 (Revised 7/92, OMB Number 0937–0189) and must contain a narrative description of each proposed project, which must include:

1. A statement of the problem(s) to be addressed and how each of the proposed projects will impact on the problem(s) , including how they will help ''Improve the Nation's Public Health Infrastructure and Improve the Performance of Public Health Agencies.''

2. A clear and concise description of project objectives and the approach(es) to be used in achieving project objectives, to be provided in one application but separately for each core and special project, along with evidence of the applicant's ability to provide the staff, knowledge, and other resources to achieve those objectives, including descriptions of the names and qualifications of professional staff to be assigned to each project and the facilities, space, and equipment available for each project.

3. A separate description of the activities to be undertaken in carrying out each project, a proposed schedule for accomplishing those activities, a description of the responsibilities of proposed staff in accomplishing those activities (including an estimate of time allocations for project staff) , and a detailed budget which specifies anticipated costs for conducting each of the project activities.

4. Budget information should be submitted for each separate project. The SF 424A used for this budget information should include separate columns for each project. Multiple SF 424A forms are encouraged.

The narrative should be no more than 30 single-spaced pages (not including appendices for items such as curricula vitae, letters of support, and other similar supporting information). The narrative should be printed on one side, with one-inch margins, and a font size of no less than 12 point, on white 8.5×11 paper. All pages should be clearly numbered, and a complete Table of Contents for the application and its appendices must be included. The required original application and two full copies must be submitted unstapled and unbound (including materials in the appendices), in order to allow the entire application to run through an automatic document feed copier.

F. Submission and Deadline

Applicants must submit an original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/funding/funding.htm*, or in the application kit.

On or before May 1, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group.

(Applicants must request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or the U.S. Postal Service. Private-metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in 1. or 2. above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

The application will be reviewed and evaluated by a CDC-convened objective review panel, based on the adequacy of the proposal relative to the following criteria:

Purpose of Project (30 Points)

Applicant's understanding of each project's purpose/problem to be addressed and relationship to purpose of cooperative agreement.

Project Objectives, Activities, and Implementation Plan (40 points)

Specificity, measurability, and feasibility of objectives and proposed activities, including a schedule for implementing proposed activities, a description of the responsibilities and time allocations of proposed staff in accomplishing those activities, and a plan for collaborating with CDC and other relevant public health and/or healthcare organizations in conducting each project.

Evaluation (10 Points)

Appropriateness of the methods to be used to monitor the implementation of proposed activities, measure the achievement of project objectives, and evaluate the impact of each project.

Organizational Qualifications and Experience (20 Points)

Evidence of applicant's ability to provide staff, facilities, space, equipment, and financial/other resources required to accomplish the goals and objectives of each project, including descriptions of the names and qualifications of professional staff to be assigned to each project and the facilities, space, and equipment available for each project.

Budget Justification (not scored)

Extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

H. Other Requirements

Technical Reporting Requirements

Applicant must provide CDC with an original plus two copies of:

1. Semi-annual progress reports, at the end of the second and fourth quarters of each budget period, no later than 30 days after the end of each of those quarters (a cumulative progress report for the first three quarters of each budget period will be prepared as part of the annual application for continuation funding during the project period).
2. Annual Financial Status Reports, no later than 90 days after the end of each budget period.
3. Final financial status and progress reports, no later than 90 days after the end of the project period.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment 1 in the application kit.

AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Section 317(k) (2) of the Public Health Service Act, 42 U.S.C. 247b(k) (2) as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where to Obtain Additional Information

This and other CDC announcements can be found on the CDC web site at *http://www.cdc.gov.* On CDC's homepage below the ''Spotlights'', click on ''Funding Opportunities'', then on ''Grants and Cooperative Agreements''.

To obtain additional business management information, contact: Juanita D. Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2734, E-Mail Address: jcrowder@cdc.gov.

To obtain additional programmatic information, contact: Susan J. Shaw, Division of Public Health Systems Development and Research, Public Health Practice Program Office, Centers for Disease Control and Prevention, 4770 Buford Highway, N.E. (MailStop K–37), Atlanta, GA 30341–3717, Telephone: 770–488–2482, E-Mail: sshaw@cdc.gov.

Dated: March 28, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 01–8094 Filed 4–2–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of the Availability of the Fiscal Year 1999 Biennial Report to Congress on the Status of Children in Head Start Programs

AGENCY: Head Start Bureau, ACF, DHHS.

ACTION: Notice.

SUMMARY: The Administration for Children and Families announces the availability of the Biennial Report to Congress on the Status of Children in Head Start Programs. This report is required by Section 650 of the Head Start Act, as amended, which requires the Secretary of Health and Human Services to submit a report to the Congress at least once during every two-year period on the status of children in Head Start programs. The sources of data for this report were the Program Information Report (PIR), the Head Start Cost System (HSCOST) and the Head Start Monitoring and Tracking System (HSMTS).

Head Start is a comprehensive child development program for low-income preschool children and their families. Head Start provides high quality early childhood education, which emphasizes cognitive and language development, social and emotional development, physical and mental Health, nutrition, social services and parental involvement.

FOR FURTHER INFORMATION CONTACT: A copy of the Head Start Biennial Report of the Status of Children in Head Start may be obtained by contacting the Head Start Information and Publication Center, P.O. Box 26417, Alexandria, Virginia, 22313–0417. The fax number is (703) 683–5769. The Information and Publication Center may also re reached by e-mail at *Puborder@headstartinfo.org.*

SUPPLEMENTARY INFORMATION: This Notice is submitted to the **Federal Register** in compliance with Section 650 of the Head Start Act, as amended, which states that upon submitting the Biennial Report on the Status of Children in Head Start Programs to Congress, a notification must be placed in the **Federal Register** announcing that it has been submitted to Congress and is available to the general public.

Dated: March 28, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–8120 Filed 4–2–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N–0102]

Cumulative List of Orphan Drug and Biological Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the cumulative list of orphan drug and biological designations as of December 31, 2000. FDA has announced the availability of previous lists, which are updated monthly, identifying the drugs and biologicals granted orphan designation under the Federal Food, Drug, and Cosmetic Act (the act).

ADDRESSES: Copies of the cumulative list of orphan drug and biological designations are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and the Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3666.

FOR FURTHER INFORMATION CONTACT: James D. Bona or Stephanie Donahoe, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3666.

SUPPLEMENTARY INFORMATION: FDA's Office of Orphan Products Development (OPD) reviews and takes final action on applications submitted by sponsors seeking orphan designation of their drug or biological under section 526 of the act (21 U.S.C. 360bb). In accordance with this section of the act which requires public notification of designations, FDA maintains a

cumulative list of orphan drug and biological designations. This list includes the name of the drug or biological, the specific disease/condition for which the drug or biological is designated, and information about the sponsor such as the name, address, telephone, and contact.

At the end of each calendar year, the agency publishes a cumulative list of orphan drug and biological designations current through the calendar year. The list that is the subject of this notice is the cumulative list of orphan drug and biological designations through December 31, 2000, and, therefore, brings the March 1, 2000 (65 FR 11066) publication up to date. This list is available upon request from the Dockets Management Branch (address above). Those requesting a copy should specify Docket No. 84N–0102, which is the docket number for this notice. In addition, the list is updated monthly and is available upon request from OPD or the FDA's Dockets Management Branch (address above). The current list is also available on the Internet at http://www.fda.gov/orphan.

The orphan designation of a drug or biological applies only to the sponsor who requested the designation. Each sponsor interested in developing a drug or biological for an orphan indication must apply for orphan designation in order to obtain exclusive marketing rights. Any request for designation must be received by FDA before the submission of a marketing application for the proposed indication for which designation is requested (21 CFR 316.23). Copies of the orphan drug regulations (21 CFR part 316) (57 FR 62076, December 29, 1992) and explanatory background materials for use in preparing an application for orphan designation may be obtained from OPD (address above).

The names of the drugs and biologicals shown in the cumulative list of orphan designations may change upon marketing approval/licensing, reflecting the established, proper name approved by FDA. Because drugs and biologicals not approved/licensed for marketing are investigational, the appropriate established, proper name has not necessarily been assigned.

Dated: March 27, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–8061 Filed 4–2–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Briefing on Bovine Spongiform Encephalopathy (BSE) and Transmissible Spongiform Encephalopathies (TSE)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following consumer meeting: Consumer Briefing on Bovine Spongiform Encephalopathy (BSE) and Transmissible Spongiform Encephalopathies (TSE). This briefing is the first in a series of consumer briefings on the consumer protection priorities discussed by the agency and consumers at the December 13, 2000, Consumer Roundtable on Consumer Protection Priorities meeting. These consumer briefings enable the agency and consumers to sustain a dialogue on FDA priorities of high consumer interest in the spirit of openness, transparency, and participation. This consumer briefing will provide an update on FDA's efforts to ensure the safety of products that may contain or are manufactured with bovine-derived ingredients.

Date and Time: The briefing will be held on April 16, 2001, 1 p.m. to 4:30 p.m. Registration will open at 12 noon.

Location: The briefing will be held at Holiday Inn Capitol, Columbia II, 550 C St., SW., Washington, DC.

Contact: Karen R. Mahoney, Office of Consumer Affairs (HFE–88), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4393, FAX 301–827–2866, e-mail: Kmahoney@oc.fda.gov.

Registration: Preregistration is required as space is very limited. Send registration information (including name, title, organization/firm name, address, telephone, fax number and e-mail) to the contact person by April 13, 2001. Preregistered consumer attendees will be given first priority for seating.

If you need any special accommodations due to disability, please contact Karen R. Mahoney (address above) by April 13, 2001.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents a page.

SUPPLEMENTARY INFORMATION: The consumer briefing is an opportunity for the agency to meet with consumers and to discuss issues and concerns as well as how FDA and consumers can work together to keep consumers informed and involved.

Procedure: The briefing is open to the public. There will be an open public session at the conclusion of the briefing where interested persons can respond to the topics and issues discussed during the briefing.

Dated: March 27, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–8062 Filed 4–2–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK): Opportunity for Cooperative Research and Development Agreements (CRADAs) To Identify Novel Candidate Genes for Obesity and Insulin Resistance Using Global Gene Expression Profiling

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) of the National Institutes of Health (NIH) announces the opportunity for Cooperative Research and Development Agreements (CRADAs) to identify novel candidate genes for obesity and insulin resistance using global gene expression profiling. The NIH seeks potential Collaborator(s) wishing to provide expertise in (1) identification of genes that may contribute to the development of obesity; (2) identification of genes that may contribute to the development of insulin resistance; (3) characterization of potentially novel sub-pathways of insulin signaling mechanisms; and (4) identification of genes regulated by free-fatty acid.

The NIDDK seeks capability statements from parties interested in entering into a potential CRADA to identify novel candidate genes for obesity and insulin resistance using global gene expression profiling. Collaborator applicants developing capability statements may also include proposals to provide funding for possible commercial uses of interest to the Collaborator. The availability of private sector support may increase the feasibility of particular aspects of the

final design, but the primary criterion for selecting potential Collaborator(s) is the scientific merit of proposals for developing a plan to identify novel candidate genes for obesity and insulin resistance using global gene expression profiling.

The control of clinical trials shall reside entirely with the Institute and the scientific participants of the trial. In the event that any adverse effects are encountered which, for legal or ethical reasons, may require communication with the FDA, the relevant collaborating institutions will be notified. Neither the conduct of the trial nor the results should be represented as an NIDDK endorsement of the drug under study.

DATES: Only written CRADA capability statements received by the NIDDK on or before May 1, 2001 will be considered during the initial design phase, confidential information must be clearly labeled. Potential Collaborators may be invited to meet with the Selection Committee at the Collaborator's expense to provide additional information. The Institute may issue an additional notice of CRADA opportunity during the design phase if circumstances change or if the design alters substantially.

FOR FURTHER INFORMATION CONTACT: Capability statements should be submitted to Dr. Michael W. Edwards, Office of Technology Development, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, BSA Building, Suite 350 MSC 2690, 9190 Rockville Pike, Bethesda, MD 20814–3800; Tel: 301/496–7778, Fax: 301/402–0535; Email: me1s@nih.gov.

SUPPLEMENTARY INFORMATION: Substantial evidence indicates that susceptibility to type 2 diabetes is largely genetically determined, especially in certain ethnic groups in which the prevalence of diabetes may be 10 times that of the general U.S. population. NIDDK has performed genomic linkage scans in subject populations and are planning to positionally clone diabetes susceptibility genes. In general, diabetes is not inherited as a simple Mendelian trait. Multiple genes with small to moderate effects are likely to contribute to the development of the diabetes. In most populations, obesity and insulin resistance precede and predict the development of type 2 diabetes. These traits are themselves highly heritable, suggesting that they have a substantial genetic basis. Genes influencing these metabolic precursors of type 2 diabetes may be fewer in number and, therefore, easier to identify than those contributing to the overall syndrome. An extensive study in the subject population has indicated several chromosomal regions that provide evidence for linkage not only to diabetes but also to pre-diabetic phenotypes. We plan to perform gene expression profiling experiments to identify susceptibility genes for obesity and insulin resistance that may serve as possible targets of intervention.

Capability Statements

A Selection Committee will utilize the information provided in the ''Collaborator Capability Statements'' received in response to this announcement to help in its deliberations. It is the intention of the NIDDK that all qualified Collaborators have the opportunity to provide information to the Selection Committee through their capability statements. The Capability Statement should not exceed 10 pages and should address the following selection criteria:

(1) The statement should provide specific details of the method to be utilized in the development of novel candidate genes for obesity and insulin resistance using global gene expression profiling.

(2) The statement should include a detailed plan demonstrating the ability to provide sufficient capacity using global gene expression profiling.

(3) The statement may include outline outcome measures of interest to the Collaborator. The specifics of the proposed outcome measures and the proposed support should include but not be limited to the following: global gene expression profiling expertise, specific funding commitment to support the advancement of scientific research, personnel, services, facilities, equipment, or other resources that would contribute to the conduct of the commercial development.

(4) The statement must address willingness to promptly publish research results and ability to be bound by PHS intellectual property policies (see CRADA: http://ott.od.nih.gov/NewPages/crada.pdf).

Dated: March 23, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer Office of Technology Transfer.

[FR Doc. 01–8085 Filed 4–2–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods and Compositions for Analysis of M3 Muscarinic Acetylcholine Receptors

Jurgen Wess, Masahisa Yamada (NIDDK), DHHS Reference No. E–291–00/0 filed 30 Oct 2000, Licensing Contact: John Rambosek; 301/496–7056 ext. 270; e-mail: rambosej@od.nih.gov

This invention discloses transgenic mice that have the M3 Muscarinic Acetylcholine Receptor deleted by gene knockout technology. These mice were developed in order to better understand the physiological relevance of the M3 receptor. Unexpectedly, these knockout mice have a phenotype that includes significant reduction in food intake, weight loss, peripheral fat deposits, as well as very low serum leptin and insulin levels. It was also found that the M3 receptor is highly expressed in the hypothalamus, a region of the brain known to be critically involved in regulation of food uptake. The mice also show physiological changes (increased levels of hypothalmic agouti-related peptide mRNA and decreased expression of propiomelanocortin mRNA) consistent with those observed in fasted animals. However, the knockout mice also have changes

(reduced levels of melanin concentrating hypothalmic mRNA) inconsistent with fasted animals. These data point to the existence of a novel cholinergic pathway involving M3 cholinergic receptor mediated stimulation of food intake. This technology strongly suggests that agents which can specifically and selectively act as antagonists of the M3 subtype receptors may be useful in the treatment of obesity.

Methods for Preventing Strokes by Inducing Tolerance to E-selectin

John M. Hallenbeck, et al. (NINDS), Serial No. 60/206,693 filed 24 May 2000, Licensing Contact: Norbert Pontzer; 301/496–7736 ext. 284; e-mail: pontzern@od.nih.gov

This invention provides methods of treating or preventing brain damage in stroke through administration of E-selectin, an inducible adhesion molecule on endothelial cells. The expression of E-selectin is induced on human endothelium in response to activation by cytokines IL–1 and TNF. E-selectin mediates the adhesion of various leukocytes, including neutrophils, monocytes, eosinophils, natural killer cells, and a subset of T cells to activated endothelium. Activation of vascular endothelial cells by proinflammatory cytokines is believed to be involved in conversion of the luminal surface of endothelium from anticoagulant and anti-inflammatory to procoagulant and pro-inflammatory leading to thrombosis. Segmental vascular activation and thrombosis are involved in the development of strokes.

Recently, a new method and pharmaceutical formulation have been found that induce tolerance mucosally, such as by intranasal administration. The potential of mucosally administered antigens to inhibit immune responses in an antigen specific fashion has encouraged attempts to apply these routes to counteract immune dysfunctions such as allergies and in particular, autoimmune disease. Intranasal administration of E-selectin induces tolerance to E-selectin and leads to immune-deviation of a subset of lymphocytes such that they can suppress activation of vessel segments that are beginning to express E-selectin. Thus the ability of intranasal E-selectin treatment to decrease stroke lesions and delay the onset of stroke in stroke-prone spontaneously hypertensive rats suggests that the initial vessel activation and damage in stroke may be immunologically mediated. Production of immunosuppression via antigen-specific modulation of the immune response (mucosal tolerance) should have no systemic immunosuppressive effects.

Dated: March 23, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–8086 Filed 4–2–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Analogs of Thalidomide as Potential Angiogenesis Inhibitors

William Figg et. al. (NCI)

DHHS Reference No. E–282–00/0; filed 27 Feb 2001

Licensing Contact: Matthew Kiser; 301/496–7735 ext. 224; e-mail: kiserm@od.nih.gov

The present invention relates to anti-angiogenesis compositions and methods of using the same. In particular, thalidomide analogs that actively inhibit angiogenesis in humans and animals are claimed. The present methods provide for the inhibition of unwanted angiogenesis through the administration of a composition comprising an effective amount of an ''active'' thalidomide analog.

Angiogenesis is the formation of new blood vessels from pre-existing vessels, and it is a prominent feature in solid tumor formation and metastasis. For example, angiogenesis seems to play an important role in tumors such as prostate cancer, breast cancer, CNS glioma, and renal cancer, to name a few. Prevention of angiogenesis could halt the growth of these types of tumors and help prevent the resultant damage due to the presence of these tumors.

Recent studies have promoted thalidomide as a potential inhibitor of angiogenesis. The anti-angiogenic activity initially attributed to thalidomide is actually the resulting effects of compounds that are only present following metabolic activation, i.e. ''active'' thalidomide metabolites. Accordingly, there is a need for the isolation, identification and characterization of these thalidomide metabolites that exhibit superior anti-angiogenic properties. Furthermore, there is a need for purified thalidomide analogs that can mimic the effects of these metabolites.

A number of thalidomide metabolites having superior anti-angiogenic properties have now been isolated and identified. In addition, thalidomide analogs that mimic the effects of the ''active'' thalidomide (metabolites and variations of such thalidomide analogs) have been synthesized and evaluated. Such thalidomide analog compounds show enhanced potency in the inhibition of angiogenesis without the undesirable effects of administration of thalidomide.

Detection and Quantification of Cripto-1 in Human Milk Using ELISA

Caterina Bianco, David S. Salomon (NCI)

DHHS Reference No. E–290–00/0 filed 26 Jan 2001

Licensing Contact: Matthew Kiser; 301/496–7735 ext. 224; e-mail: kiserm@od.nih.gov

Cripto-1 (CR1) is a member of the epidermal growth factor (EGF)-related families of peptides and is involved in the development and progression of various human carcinomas. In particular, CR1 overexpression has been detected in 50–90% of carcinomas of the colon, pancreas, stomach, gallbladder, breast, lung, endometrium and cervix. Current methodologies of cancer detection, e.g. immunohistochemistry, can be time consuming, inconvenient and oftentimes, inaccurate, and therefore, a need exists for more efficient, reliable and less time consuming methods of detection. The invention relates to such a method of detection. The inventors

disclose methods for the detection and quantification of CR1 in human milk, using an ELISA-based protocol. Thus, this test could be used to more effectively detect and perhaps stage cancers. Additionally, should particular tumor cells, e.g. breast tumor cells, express a sufficiently high level of CR1, it may be possible to use the disclosed assay to detect and measure CR1 in human serum and/or plasma. Claims to these routes of detection are also present in the patent application. As such, a novel, efficient and useful in vitro diagnostic and prognostic test is now available to suitable commercial partners.

Dated: March 23, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–8087 Filed 4–2–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The use of cyanovirin-N in a Topical Microbicide To Prevent the Transmission of HIV and Other Sexually Transmitted Diseases

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a exclusive license worldwide to practice the invention embodied in the patents and patent applications referenced below to Biosyn, Inc., of Philadelphia, PA. The patent rights in these inventions have been assigned to the United States of America.

(1) U.S. Patent No. 5,821,081, issued Oct. 13, 1998, entitled ''Nucleic Acids Encoding Antiviral Proteins and Peptides, Vectors and Host Cells Comprising Same, and Methods of Producing the Antiviral Proteins and Peptides'' (PHS Reference No. E–117–95/1)

(2) U.S. Patent No. 5,843,882, issued Dec. 01, 1998, entitled ''Antiviral Proteins and Peptides, DNA, DNA-coding Sequences Therefor, and Uses Thereof'' (E–117–95/0)

(3) U.S. Patent No. 5,998,587, issued Dec. 7, 1999, entitled ''Anti-Cyanovirin Antibody'' (E–117–95/6)

(4) U.S. Patent No. 6,015,876, issued Jan. 18, 2000, entitled ''Method of Using Cyanovirins'' (E–117–95/3)

(5) U.S. Patent Application No. 09/267,447, filed Mar. 12, 1999, pending, entitled ''Cyanovirin Conjugates and Matrix-Anchored Cyanovirin and Related Composition and Methods of Use'' (E–074–99/0)

(6) U.S. Patent Application No. 09/416,434, pending, entitled ''Cyanovirin Conjugates and Matrix-Anchored Cyanovirin and Related Composition and Methods of Use'' (E–074–99/1)

(7) U.S. Patent Application No. 09/427,873, filed 10/27/99, pending, entitled ''Methods of Using Cyanovirins to Inhibit Viral Infection'' (E–074–99/3)

(8) U.S. Patent Application No. 09/417,797, filed 10/27/99, pending, entitled ''Methods of Using Cyanovirins Topically to Inhibit Viral Infection'' (E–074–99/4)

(9) PHS Reference Number E–074–99/7, filed 3/22/01, entitled ''Glycosylation-Resistant Cyanovirins and Related Conjugates, Compositions, Nucleic Acids, Vectors, Host Cells, Methods of Production and Methods of Using Nonglycosylated Cyanovirins''

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before July 2, 2001 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Sally Hu, Ph.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 265; Facsimile: (301) 402–0220; e-mail: hus@od.nih.gov.

SUPPLEMENTARY INFORMATION: The patents and patent applications describe a novel protein, cyanovirin-N, discovered by Dr. Michael R. Boyd and colleagues at the National Cancer Institute. Cyanovirin-N was isolated from a blue-green algae and has been demonstrated to bind avidly to and inactivate the human immunodeficiency virus (HIV).

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 90 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to compositions, devices and methods for the prevention of infection by HIV and other sexually transmitted pathogens, topically, but not systemically, utilizing cyanovirin-N, anti-HIV mutants of cyanovirin-N, and anti-HIV fragments of both, but excluding pegylated cyanovirin-N, pegylated anti-HIV mutants of cyanovirin-N and pegylated anti-HIV fragments of both.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 26, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–8091 Filed 4–2–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Identification of TRP–2 as a New Human Tumor Antigen Recognized by Cytotoxic T Lymphocytes

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health. Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patent Applications S/N 08/725,736, filed on October 4, 1996, and now U.S. Patent 5,831,016 which issued on November 3, 1998; S/N 09/161,877 (DIV of 08/725,736), filed on September 28, 1998, and now U.S. Patent 6,132,980 which issued on October 17, 2000; S/N 09/162,368 (DIV of 08/725,736), filed on September 28, 1998, and now U.S. Patent 6,083,703 which issued on July 4, 2000; and S/N 09/651,210 (DIV of 08/725,736), filed on August 30, 2000, all entitled ''Identification of TRP–2 as a New

Human Tumor Antigen Recognized by Cytotoxic T Lymphocytes'; and PCT Patent Application PCT/US97/02186 (based upon U.S. Patent Applications S/N 08/599,602 and 08/725,736) filed on February 6, 1997, entitled ''Human Cancer Antigen of Tyrosinase-Related Protein 1 and 2 and Genes Encoding Same'', to ImClone Systems Incorporated of New York, New York. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license territory will be worldwide and the field of use may be limited to protein vaccines consisting of the full-length TRP–2 protein or the lumenal portion thereof. Fragments or peptides of TRP–2 can be used together with gp75 and/or Tyrosinase or fragments or peptides thereof for use as human anti-melanoma therapeutics but only when used in multimeric form, that is when multiple different epitopes are expressed contiguously in the said vaccine. Specifically excluded from the field of use are TRP–2 fragments or peptides (other than the afore-mentioned lumenal portion) used in a monomeric form, to be used either alone or in combination with other peptides, proteins, or other recombinant vector, DNA or RNA vaccines or vaccination protocols. Also excluded are the use of nucleic acid sequences encoding the TRP–2 antigen in any form including those used in any viral, bacterial, DNA and RNA vaccine or vaccination protocol.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before June 4, 2001 will be considered.

ADDRESSES: Requests for copies of the patent/patent applications, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Elaine White, M.B.A., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD. 20852–3804. Telephone: (301) 496–7056, X282; Facsimile (301) 402–0220; E-mail eg46t@nih.gov.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 23, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health

[FR Doc. 01–8088 Filed 4–2–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Systemic *in vivo* use of cyanovirin-N as a Prophylactic or Therapeutic Against HIV and Enveloped Viruses that Cause Hemorrhagic Fever

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a exclusive license worldwide to practice the invention embodied in the patents and patent applications referenced below to OmniViral Therapeutics LLC, of Gaithersburg, MD. The patent rights in these inventions have been assigned to the United States of America.

(1) U.S. Patent No. 5,821,081, issued Oct. 13, 1998, entitled ''Nucleic Acids Encoding Antiviral Proteins and Peptides, Vectors and Host Cells Comprising Same, and Methods of Producing the Antiviral Proteins and Peptides'' (PHS Reference No. E–117–95/1)

(2) U.S. Patent No. 5,843,882, issued Dec. 01, 1998, entitled ''Antiviral Proteins and Peptides, DNA, DNA-coding Sequences Therefor, and Uses Thereof'' (E–117–95/0)

(3) U.S. Patent No. 5,998,587, issued Dec. 7, 1999, entitled ''Anti-Cyanovirin Antibody'' (E–117–95/6)

(4) U.S. Patent No. 6,015,876, issued Jan. 18, 2000, entitled ''Method of Using Cyanovirins'' (E–117–95/3)

(5) U.S. Patent Application No. 09/267,447, filed Mar. 12, 1999, pending, entitled ''Cyanovirin Conjugates and Matrix-Anchored Cyanovirin and Related Composition and Methods of Use'' (E–074–99/0)

(6) U.S. Patent Application No. 09/416,434, pending, entitled ''Cyanovirin Conjugates and Matrix-Anchored Cyanovirin and Related Composition and Methods of Use'' (E–074–99/1)

(7) U.S. Patent Application No. 09/427,873, filed 10/27/99, pending, entitled ''Methods of Using Cyanovirins to Inhibit Viral Infection'' (E–074–99/3)

(8) PHS Reference Number E–074–99/7, filed 3/22/01, entitled ''Glycosylation-Resistant Cyanovirins and Related Conjugates, Compositions, Nucleic Acids, Vectors, Host Cells, Methods of Production and Methods of Using Nonglycosylated Cyanovirins''

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before July 2, 2001 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Sally Hu, Ph.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 265; Facsimile: (301) 402–0220; e-mail: hus@od.nih.gov.

SUPPLEMENTARY INFORMATION: The patents and patent applications describe a novel protein, cyanovirin-N, discovered by Dr. Michael R. Boyd and colleagues at the National Cancer Institute. Cyanovirin-N was isolated from a blue-green algae and has been demonstrated to bind avidly to and inactivate the human immunodeficiency virus (HIV). Enveloped viruses causing hemorrhagic fever are: Ebola, Marburg, Machupo (Bolivian), Lassa Fever, Argentine hemorrhagic fever, Congo-Crimean hemorrhagic fever, Junin, Korean hemorrhagic fever, Makonde, Tacaribe, and dengue.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 90 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to compositions, devices and methods for

the prevention and treatment of HIV infection and infections caused by enveloped viruses causing hemorrhagic fever, systemically, but not topically, utilizing cyanovirin-N, anti-HIV mutants of cyanovirin-N, and anti-HIV fragments of both, but excluding pegylated cyanovirin-N, pegylated anti-HIV mutants of cyanovirin-N and pegylated anti-HIV fragments of both.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 26, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–8089 Filed 4–2–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The *ex vivo* use of cyanovirin-N To Remove or Inactivate HIV in Fluid Samples

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a exclusive license worldwide to practice the invention embodied in the patents and patent applications referenced below to OmniViral Therapeutics LLC, of Gaithersburg, MD. The patent rights in these inventions have been assigned to the United States of America.

(1) U.S. Patent No. 5,821,081, issued Oct. 13, 1998, entitled ''Nucleic Acids Encoding Antiviral Proteins and Peptides, Vectors and Host Cells Comprising Same, and Methods of Producing the Antiviral Proteins and Peptides'' (PHS Reference No. E–117–95/1)

(2) U.S. Patent No. 5,843,882, issued Dec. 01, 1998, entitled ''Antiviral Proteins and Peptides, DNA, DNA-coding Sequences Therefor, and Uses Thereof'' (E–117–95/0)

(3) U.S. Patent No. 5,998,587, issued Dec. 7, 1999, entitled ''Anti-Cyanovirin Antibody'' (E–117–95/6)

(4) U.S. Patent No. 6,015,876, issued Jan. 18, 2000, entitled ''Method of Using Cyanovirins'' (E–117–95/3)

(5) U.S. Patent Application No. 09/267,447, filed Mar. 12, 1999, pending, entitled ''Cyanovirin Conjugates and Matrix-Anchored Cyanovirin and Related Composition and Methods of Use'' (E–074–99/0)

(6) U.S. Patent Application No. 09/416,434, pending, entitled ''Cyanovirin Conjugates and Matrix-Anchored Cyanovirin and Related Composition and Methods of Use'' (E–074–99/1)

(7) PHS Reference Number E–074–99/7, filed 3/22/01, entitled ''Glycosylation-Resistant Cyanovirins and Related Conjugates, Compositions, Nucleic Acids, Vectors, Host Cells, Methods of Production and Methods of Using Nonglycosylated Cyanovirins''

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before July 2, 2001 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Sally Hu, Ph.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 265; Facsimile: (301) 402–0220; e-mail: hus@od.nih.gov.

SUPPLEMENTARY INFORMATION: The patents and patent applications describe a novel protein, cyanovirin-N, discovered by Dr. Michael R. Boyd and colleagues at the National Cancer Institute. Cyanovirin-N was isolated from a blue-green algae and has been demonstrated to bind avidly to and inactivate the human immunodeficiency virus (HIV).

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 90 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to compositions, devices and methods for the ex vivo removal or inactivation of HIV from fluid samples, utilizing cyanovirin-N, anti-HIV mutants of cyanovirin-N, and anti-HIV fragments of both, but excluding pegylated cyanovirin-N, pegylated anti-HIV mutants of cyanovirin-N and pegylated anti-HIV fragments of both.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 26, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–8090 Filed 4–2–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP) Board of Scientific Counselors Technical Reports Review Subcommittee Meeting; Review of Draft NTP Technical Reports

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors Technical Reports Review Subcommittee on May 3, 2001 in the Rodbell Auditorium, Rall Building, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 8:30 a.m. on May 3, and is open to the public. The primary agenda topic is the peer review of draft Technical Reports of rodent toxicology and carcinogenesis studies performed by the NTP.

Tentatively scheduled for peer review on May 3, are draft Technical Reports of five 2-year studies, listed alphabetically in the attached table, along with supporting material. Studies were conducted using Fischer 344 rats and/or $B6C3F_1$ mice. The tentative order of review is given in the far right column of the table.

Draft Reports Available for Public Review and Comment

Approximately one month prior to the meeting, the draft reports will be available for public review on the internet, free of charge, through the Environmental Health Information Service (EHIS) at http://ehis.niehs.nih.gov. Printed copies can be obtained, as available, from: Central

Data Management (CDM), NIEHS, P.O. Box 12233, MD E1–02, Research Triangle Park, NC 27709, T: 919–541–3419, FAX: 919–541–3687, or e-mail: CDM@niehs.nih.gov.

The NTP Board of Scientific Counselors Technical Reports Review Subcommittee meeting is open to the public and public comment on any of the Technical Reports is welcome. Time will be provided at the meeting for public comment on each of the reports under review. In order to facilitate planning for the meeting, persons requesting time for an oral presentation on a particular Technical Report are asked to notify the Executive Secretary, Dr. Mary S. Wolfe, at P.O. Box 12233, MD A3–07, Research Triangle Park, NC 27709, T: 919–541–3971, F: 919–541–0295, e-mail: wolfe@niehs.nih.gov. Persons registering to make brief comments are asked to provide, if possible, a written copy of their statement by April 20, to enable review by the Subcommittee and staff prior to the meeting. Written statements can supplement and may expand the oral presentation. Each speaker is asked to provide his/her name, affiliation, mailing address, phone, fax, e-mail and supporting organization (if any). At least seven minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes. Each organization is allowed one time slot for each report being reviewed. Registration for making public comments will also be available on-site. If registering on-site to speak and reading oral comments from printed copy, the speaker is asked to bring 25 copies of the text. These copies will be distributed to the Chair and Subcommittee members and supplement the record.

Written comments, in lieu of making oral comments, are also welcome. The comments should include name, affiliation, mailing address, phone, fax, e-mail and sponsoring organization (if any) and preferably be received by April 20, to enable review by the Subcommittee and staff prior to the meeting.

Request for Additional Information

The NTP would welcome receiving toxicology and carcinogenesis information from completed, ongoing or planned studies as well as current production data, human exposure information, and use patterns for any of the chemicals listed in this announcement. Please forward this information to CDM at the address given above. CDM will forward the information to the appropriate staff scientist.

The agenda and a roster of subcommittee members will be available prior to the meeting on the NTP web homepage at *http://ntp-server.niehs.nih.gov* and upon request from the Executive Secretary. Following the meeting, summary minutes will be available on the NTP web homepage and upon request to Dr. Wolfe.

Dated: March 23, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW BY THE NTP BOARD OF SCIENTIFIC COUNSELORS TECHNICAL REPORTS REVIEW SUBCOMMITTEE ON MAY 3, 2001

Chemical CAS number	Report No.	Primary uses	Route & exposure levels	Review order
Acrylonitrile 107–13–1 ..	TR–506	Used in the production of acrylic fibers, elastomers, resins, and a variety of chemical or intermediates; annual production is in the millions of tons.	Gavage (deionized water vehicle) ..... Mice: 2.5, 10, or 20 mg/kg	3
Citral 5392–40–5	TR–505	Used in lemon flavoring in foods and beverages and as a lemon fragrance in detergents, perfumes, and toiletries.	Microencapsulated citral in feed Rats: 0, 1000, 2000, or 4000 ppm. Mice: 0, 500, 1000, or 2000 ppm	5
Methacrylonitrile 126–98–7.	TR–497	Used in the production of polymers, elastomers, and plastics including those used in beverage containers.	Gavage (deionized water vehicle) ..... Rats: 0, 3, 10, or 30 mg/kg ..... Mice: 0, 1.5, 3, or 6 mg/kg	4
o-Nitrotoluene 88–72–2	TR–504	Used in synthesis of agricultural and rubber chemicals and of a variety of dyes.	Feed ..... Rats: 0, 625, 1250, or 2000 ppm; ..... Male rats: 2000 or 5000 ppm (stop study) ..... Mice: 0, 1250, 2500, or 5000 ppm	1
p-Nitrotoluene 99–99–0	TR–498	Used in synthesis of agricultural and rubber chemicals and of a variety of dyes.	Feed ..... Rats & Mice: ..... 0, 1250, 2500, or 5000 ppm	2

[FR Doc. 01–8092 Filed 4–2–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

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

Proposed Project

Participant Feedback on Training Under the Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program II (OMB No. 0930–0195, Extension)—The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for

Mental Health Services (CMHS) intends to continue to conduct a multi-site assessment of its Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program II until the end of the sites' expenditure of Program II funds (anticipated end date of September 2002). The education programs funded under this cooperative agreement are designed to disseminate knowledge of the psychological and neuropsychiatric sequelae of HIV/AIDS to both traditional (e.g., psychiatrists, psychologists, nurses, primary care physicians, medical students, and social workers) and non-traditional (e.g., clergy, and alternative health care workers) first-line providers of mental health services.

The multi-site assessment is designed to assess the effectiveness of particular training curricula, document the integrity of training delivery formats, and assess the effectiveness of the various training delivery formats. Analyses will assist CMHS in documenting the numbers and types of traditional and non-traditional mental health providers accessing training; the content, nature and types of training participants receive; and the extent to which trainees experience knowledge, skill and attitude gains/changes as a result of training attendance. The multi-site data collection design uses a two-tiered data collection and analytic strategy to collect information on (1) the organization and delivery of training, and (2) the impact of training on participants' knowledge, skills and abilities.

Information about the organization and delivery of training will be collected from trainers and staff who are funded by these cooperative agreements hence there is no respondent burden. All training participants attending sessions lasting less than 6 hours will be asked to complete a brief feedback form at the end of the training session. Trainees attending sessions lasting 6 hours or longer will be asked to complete brief pre- and post-session feedback questionnaires. A sample of trainees attending sessions lasting 6 hours or longer will also be asked to complete a brief follow-up telephone interview three months after the training session. CMHS has funded seven education sites under the Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program II. The annual burden estimates for this activity are shown below:

Form	Responses per respondent	Estimated number of respondents (× 7 sites)	Hours per response	Total hours
All Sessions				
Session Report Form	1	60 × 7 = 420	0.080	34
Sessions Less than 6 Hours				
Participant Feedback Form	1	600 × 7 = 4200	0.167	701
Neuropsychiatric Participant Feedback Form	1	75 × 7 = 525	0.167	88
Ethics Participant Feedback Form	1	75 × 7 = 525	0.167	88
Sessions 6 Hours or Longer				
Pre-Training Participant Inventory	1	200 × 7 = 1400	0.167	234
Post-Training Participant Inventory	1	200 × 7 = 1400	0.250	350
Neuropsychiatric Pre-Training Participant Inventory	1	50 × 7 = 350	0.167	58
Neuropsychiatric Post-Training Participant Inventory	1	50 × 7 = 350	0.250	88
Participant Follow-up Form	1	45 × 7 = 315	0.250	79
Monthly Form Submission				
Monthly Form Mailing	[1] 12	84	0.167	14
Total		7,504		1,733

[1] Per site.

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 27, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–8098 Filed 4–2–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will

be listed at the end, and will be omitted from the monthly listing thereafter.

This Notice is also available on the internet at the following website: *http://www.health.org/workplace*.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

Special Note: Please use the above address for all surface mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Laboratory Partners, LLC, 129 East Cedar St., Newington, CT 06111, 860–696–8115 (Formerly: Hartford Hospital Toxicology Laboratory)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (Formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, P.O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180 (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609

Express Analytical Labs, 1301 18th Ave., NW, Suite 110, Austin, MN 55912, 507–437–7322

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Integrated Regional Laboratories, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–777–0018, 800–522–0232 (Formerly: Cedars Medical Center, Department of Pathology)

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Stateline Road West, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MAXXAM Analytics Inc.,* 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/

800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.)

One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 11604 E. Indiana Ave., Spokane, WA 99206, 509–926–2400/800–541–7891

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800 (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 858–279–2600/800–882–7272

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 248–373–9120/800–444–0106 (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 801 East Dixie Ave., Suite 105A, Leesburg, FL 34748, 352–787–9006 x4343 (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/800–877–7484 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728 (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

Universal Toxicology Laboratories, LLC, 9930 W. Highway 80, Midland, TX 79706, 915–561–8851/888–953–8851

The following laboratory voluntarily withdrew from the National Laboratory Certification Program on March 6, 2001: San Diego Reference Laboratory, 6122 Nancy Ridge Dr., San Diego, CA 92121, 800–677–7995/858–677–7970.

The following laboratory voluntarily withdrew from the National Laboratory Certification Program on March 31, 2001: Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 972–916–3376/800–526–0947 (Formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories).

The following laboratory voluntarily withdrew from the National Laboratory Certification Program on April 1, 2001: UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 818–996–7300/800–339–4299 (Formerly: MetWest-BPL Toxicology Laboratory).

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 **Federal Register**, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–8099 Filed 4–2–01; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

PRT–040380

Applicant: Thomas Ellis, Katy, TX

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–040405

Applicant: Michael Alson Porter, Paulding, OH

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–040449

Applicant: Michael Marinelli, Alpharetta, GA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–038763

Applicant: Biotracking, Moscow, ID

The applicant requests a permit to import biological samples collected from captive wood bison (*Bison bison athabascae*) held by the the Government of the Northwest Territories, Wildlife and Fisheries Division, Yellowknife, NWT, Canada, for pregnancy testing for the purpose of enhancement of the survival of the species through captive propagation. This notification covers activities by this applicant over a period of five years.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq. and the regulations governing marine mammals (50 CFR 18).

Written data, comments or requests for copies of these complete applications or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281. These requests must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–040411

Applicant: Virgil Lair, Chanute, KS

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Northern Beaufort polar bear population, in Canada for personal use, taken in February Dated: 2001.

PRT–040317

Applicant: Stanley L. Arnt, Watervliet, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population in Canada for personal use, taken in March 2001.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

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 to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 23, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–8080 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Denial of Permit for Marine Mammals

On December 7, 2000, a notice was published in the **Federal Register**, Vol. 65, No. 236, Page 76662, that an application had been filed with the Fish and Wildlife Service by Nathan P. Newbern, Ft. Worth, Texas, for a permit (PRT–035772) to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population, Canada for personal use.

Notice is hereby given that on March 22, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service denied the requested permit.

Documents and other information submitted for this application is available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203, phone (703) 358–2104 or Fax (703) 358–2281.

Dated: March 23, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–8081 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(NV–050–1610–DO)

Supplement to the Notice of Intent Issued in Vol. 65, No. 74/ Monday, April 17, 2000, To Revise the Nellis Air Force Range Resource Plan and Prepare a New Environmental Impact Statement

AGENCY: Department of the Interior, Bureau of Land Management in cooperation with the Department of Defense, Nellis Air Force Base and the United States Fish and Wildlife Service.

ACTION: Supplement to the Notice of Intent. The Bureau of Land Management is providing updated information on the process, note the change in name of the plan, cooperating agencies status, planning criteria, and the area covered by the plan. There are no new significant issues to present. A separate notice of availability will be issued for the Draft Plan, in the near future.

COOPERATING AGENCY STATUS: The following are cooperating agencies in the planning effort: United States Fish and Wildlife Service, the Department of Defense, the Nevada Division of Wildlife, Nye County and Clark County. Native American interests are represented on the core team.

SUPPLEMENTARY INFORMATION:

1. The Name Change and Geographic Area Covered by the Resource Plan

The Name of the plan is changed from the Nellis Air Force Range Resource Plan to the Nevada Test and Training Range Resource Management (NTTR) Plan. The geographic area covered by

the plan includes only those lands withdrawn from the BLM by Public Law 106–65, which is approximately 2 million acres. A map is available for review at the Las Vegas Field Office, 4765 W Vegas Drive, Las Vegas, Nevada 89108.

2. Preliminary Planning Criteria

A. Provide for military use and management of specified resources.

B. Actions must comply with laws, executive orders, and regulations including Public Law 106–65.

C. The planning area is defined as that portion of the NTTR which was withdrawn from the BLM. The NTTR plan will include planning determinations for all public lands located within the planning area boundary, including those public lands administered by the Department of Interior, the Department of Defense.

D. Decisions about specific range, wildlife, and watershed improvements will not be made in the NTTR plan, but rather in subsequent activity-level plans (i.e. habitat management plans, allotment management plans) designed to implement the NTTR plan decisions.

E. Management use and protection of water, water resources, riparian zones, and other related values will be given a high priority.

F. Use the Geographic Information System (GIS) when digitized information is available.

G. Watershed determinations will be based on hydrographic basins.

H. The NTTR plan will incorporate a method for amending the NTTR plan on a regularly scheduled basis.

I. The RMP will be consistent to the maximum extent possible with the plans and management programs of local governments, consistent with Federal laws and guiding regulations and coordinated with other Federal agencies where appropriate.

J. Participation by the public will be a factor in decision making. The Keystone Dialog will help guide preparation of the RMP based on previous coordination with the public.

K. Valid existing management decisions from the 1992 Nellis Air Force Range Resource Plan will be brought forward into the Draft NTTR Resource Management Plan, with relevant objectives and management directions carried forward into the NTTR plan.

L. The NTTR plan effort will rely on available inventories of the lands and resources as well as data gathered during the planning process to reach sound management decisions. Any decisions requiring additional inventories will be deferred until such times as the inventories can be conducted.

M. Provide for continued use of resources while maintaining a desired vegetative community, stabilized soils and visual quality.

O. Within the non-attainment area, Clark County Health District regulation will be followed.

3. Preliminary Plan Alternatives

Alternative A is the No Action Alternative. This alternative is the continuation of current management under the existing Nellis Air Force Range Management plan. This alternative provides a baseline for the comparison of the environmental effects of the other alternatives. Alternative B is the alternative supported by the BLM based on data which indicates horses were present in the early 70's throughout the vast majority of the North Range. This alternative adopts and documents the extent of the 1971 Herd Use Area and adopts that portion of the use area within the current NTTR boundary as the Herd Management Area. Further, a ''core area'' is identified that will be the basis for determining the AML for the entire HMA, in the future. The HMA boundary recognizes that animals will move out of the core area seasonally, but will use the core area the majority of the time.

Alternative C is substantially different than alternative B in that the HMA is limited to an area smaller than the core area of alternative B's HMA.

Alternative D identifies removal of all wild horses from the NTTR.

4. Disciplines Represented on the Planning Team

The RMP/EIS will be comprised of the following disciplines: Team Leader, Wild Horse and Burro Specialist, Wildlife Biologist, Archaeologist, Geologist, Reality Specialist, Hydrologist, Hazardous Material Specialist, Soil Scientist, Fire Management Specialist, Air Force Environmental Staff, Rangeland Management Specialist, Air Force Liaison, Department of Energy Environmental Staff, Riparian and Noxious Weed Specialist.

5. Public Participation

Public Scoping meetings were held as identified in the original Federal Register Notice. Informal public comments and input are encouraged throughout the development of the RMP/EIS. The next formal public comment period will be offered with the publication of the Draft NTTR RMP/EIS

6. Location of Planning Documents

Planning documents and other pertinent materials may be examined at the Las Vegas Field Office located in Las Vegas, Nevada between 7:30 am and 4:15, Monday through Friday.

ADDRESSES/FOR FURTHER INFORMATION CONTACT: For further information contact Jeffrey G. Steinmetz, Las Vegas Field Office Environmental Protection Specialist and Team Lead for the BLM at Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89108, telephone (702)–647–5097.

Dated: March 6, 2001.

Mark T. Morse,

Field Manager.

[FR Doc. 01–8109 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1310–01; (TXNM 101033)]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease TXNM 101033 for lands in Grayson County, Texas, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 2000, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

The Lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective September 1, 2000, subject to the original terms and conditions of the lease and the increased rental an royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: March 16, 2001.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 01–8107 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(NM–930–1310–01); OKNM 96077)]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease OKNM 96077 for lands in Coal County, Oklahoma, was timely filed and was accompanied by all required rentals and royalties accruing from December 1, 2000, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

The Lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 USC 188), and the Bureau of Land Management is proposing to reinstate the lease effective December 1, 2000, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Margo C. Sena, BLM, New Mexico State Office, (505) 438–7457.

Dated: March 5, 2001.

Margo C. Sena,

Land Law Examiner.

[FR Doc. 01–8108 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–680–5101–ER–B124; CACA–41418]

Notice

AGENCY: Bureau of Land Management, Interior.

ACTION: Supplemental notice of availability, plan amendment approved.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) has approved a proposal to amend the California Desert Conservation Area Plan (CDCA) to partially exempt the proposed Level 3 Communications, L.L.C., fiber optic cable right-of-way from a designated Energy Production and Utility Corridor for a portion of the proposed alignment. The exemption allows the segment to deviate from the Corridor for 12.5 miles. Please see **Federal Register**, Notice of Intent dated July 25, 2000 (Volume 65, Number 143), for more detailed information.

By publication of this Notice the protest period for this plan amendment is initiated. This decision will become effective 30 days after publication of this Notice. In accordance with 43 CFR 1610–5–2, any person who participated in the planning process and believes they will be adversely affected by this plan amendment may protest. The protest may raise only those issues which were submitted for the record during the planning process. The protest must be in writing and filed at the following address within 30 days from the date of publication of this Notice, Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protest Coordinator, WO–210/LS–1075, Department of the Interior, Washington, D.C., 20240. Protest filed late will be rejected.

In order to be considered complete, your protest must contain, at a minimum, the following information:

1. The name, mailing address, telephone number, and interest of the person filing the protest.
2. A statement of the issue or issues being protested.
3. A statement of the part or parts of the proposed plan amendment being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, maps, etc., included in the document.
4. A copy of all documents addressing the issue or issues that you submitted during the planning process or a reference to the date the issue or issues were discussed by you for the record.

For further information, contact Becki Gonzales, Realty Specialist, at the Bureau of Land Management, Barstow Field Office, 2601 Barstow Road, Barstow, CA 92311, or telephone (760) 252–6029.

Dated: March 26, 2001.

Harold Johnson,

Acting Field Manager.

[FR Doc. 01–8078 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–40–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of restricted joint bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period May 1, 2001, through October 31, 2001. The List of Restricted Joint Bidders published October 6, 2000, in the **Federal Register** at 65 FR 195 covered the period November 1, 2000, through April 30, 2001.

Group I. Exxon Mobil Corporation; and ExxonMobil Exploration Company

Group II. Shell Oil Co.; Shell Offshore Inc., SWEPILP; Shell Frontier Oil & Gas Inc.; Shell Consolidated Energy Resources Inc.; Shell Land & Energy Company; Shell Onshore Ventures Inc.; Shell Deepwater Development Inc.; Shell Deepwater Production Inc.; and Shell Offshore Properties and Capital II, Inc.

Group III. BP Exploration & Oil Inc.; BP Exploration & Production Inc.; BP Exploration (Alaska) Inc.; Amoco Production Company; Vastar Offshore Inc.; and Vastar Resources Inc.

Group IV. TotalFinaElf E&P USA, Inc.; Elf Aquitaine Oil Programs, Inc.; TOTAL Exploration Production USA, Inc.; and Fina E&P, Inc.

Group V. Chevron Corporation; and Chevron U.S.A. Inc.

Dated: March 28, 2001.

Thomas R. Kitsos,

Director, Minerals Management Service.

[FR Doc. 01–8073 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–MR–M

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 Museum of Anthropology, University of Missouri-Columbia, Columbia, MO

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 Museum of Anthropology, University of Missouri-Columbia, Columbia, MO.

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 University of Missouri-Columbia professional staff in consultation with representatives of the Otoe-Missouria Tribe of Indians, Oklahoma; and the Iowa Tribe of Oklahoma.

Between 1939–1980, human remains representing a minimum of 14 individuals were recovered from the Utz site (site 23SA002), Saline County, MO, during excavations conducted by the University of Missouri-Columbia professional staff, supervised field school students, and volunteers of the Missouri Archaeological Society. No known individuals were identified. The 132 associated funerary objects are ceramic sherds, glass sherds, debitage, metal fragments, 3 copper bracelets, projectile points, a bone awl, a groundstone pipe, pieces of hematite, a blue glass bead, a piece of quartz, and faunal remains.

Based on oral tradition, types of associated funerary objects, and historical documents, these individuals have been identified as Native American. Based on radiocarbon dating, the presence of trade objects, and historical documents, the Utz site has been identified as a village occupation estimated to date to C.E. 1460–1712. Oral tradition, archaeological evidence, and historical documents indicate that the Utz site was a village of the Missouria Tribe, and these burial are therefore reasonably believed to be culturally affiliated with the Otoe-Missouria Tribe of Indians, Oklahoma.

Based on the above-mentioned information, officials of the University of Missouri-Columbia have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 14 individuals of Native American ancestry. Officials of the University of Missouri-Columbia also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 132 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 University of Missouri-Columbia 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 associated funerary objects and the Otoe-Missouria Tribe of Indians, Oklahoma. This notice has been sent to officials of the Otoe-Missouria Tribe of Indians, Oklahoma; and the Iowa Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Michael O'Brien, Director, Museum of Anthropology, 317 Lowry Hall, University of Missouri-Columbia, Columbia, MO 65211, telephone (573) 882–4421, before May 3, 2001. Repatriation of the human remains and associated funerary objects to the Iowa Tribe of Oklahoma on behalf of the Otoe-Missouria Tribe of Indians, Oklahoma may begin after that date if no additional claimants come forward.

Dated: March 20, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–8175 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Human Remains and Associated Funerary Objects in the Possession of the Peabody Museum of Archaeology and Ethnology, 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 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 the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; Minnesota Chippewa Tribe, Minnesota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac and Fox Nation, Oklahoma; Sac and Fox Nation of Missouri in Kansas and Nebraska; Sac and Fox Tribe of the Mississippi in Iowa; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Turtle Mountain Band of Chippewa Indians of North Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; White Earth Band of the Minnesota Chippewa Tribe, Minnesota; and Yankton Sioux Tribe of South Dakota.

In 1905, human remains representing one individual were donated to the Peabody Museum of Archaeology and Ethnology by G.F. Will and H.J. Spinden. No known individual was identified. No associated funerary objects are present.

Museum records indicate that these remains were collected by Messrs. Will and Spinden from the Mandan Village site (also known as the Burgois or Double Ditch site, 32BL8), Mandan, ND, in 1905 as part of a Peabody Museum of Archaeology and Ethnology

expedition and were accessioned into the museum that year.

Archeological evidence indicates that the Mandan Village site dates to the Heart River complex (A.D. 1450–1780), which shows cultural continuity with sites occupied by the Mandan tribe in the postcontact period. Combined archeological, historical, and oral tradition evidence indicate that there is a shared group identity between the Heart River complex and the historic Mandan tribe. The Mandan tribe is represented by the present-day Three Affiliated Tribes of the Fort Berthold, Reservation, North Dakota.

In 1885, human remains representing two individuals were donated to the Peabody Museum of Archaeology and Ethnology by Henry W. Coe. No known individuals were identified. No associated funerary objects are present.

Museum records indicate that these remains were collected by Mr. Coe from the Mandan Village site in Mandan, ND, in 1885, and were accessioned into the museum the same year.

Archeological evidence indicates that the Mandan Village site dates to the Heart River complex (A.D. 1450–1780), which shows cultural continuity with sites occupied by the Mandan tribe in the postcontact period. Combined archeological, historical, and oral tradition evidence indicates that there is a shared group identity between the Heart River complex and the historic Mandan tribe. The Mandan tribe is represented by the present-day Three Affiliated Tribes of the Fort Berthold, Reservation, North Dakota.

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 are reasonably believed to be the physical remains of three individuals 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 human remains and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

This notice has been sent to officials of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; Minnesota Chippewa Tribe, Minnesota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac and Fox Nation, Oklahoma; Sac and Fox Nation of Missouri in Kansas and Nebraska; Sac and Fox Tribe of the Mississippi in Iowa; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Turtle Mountain Band of Chippewa Indians of North Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; White Earth Band of the Minnesota Chippewa Tribe, Minnesota; and Yankton Sioux Tribe of South Dakota. 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, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495–2254, before May 3, 2001. Repatriation of the human remains to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may begin after that date if no additional claimants come forward.

Dated: March 21, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–8169 Filed 4–2–01 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.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 43 CFR 10.9, 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 the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; Minnesota Chippewa Tribe, Minnesota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota; Rosebud Sioux Tribe of the Rosebud

Indian Reservation, South Dakota; Sac and Fox Nation, Oklahoma; Sac and Fox Nation of Missouri in Kansas and Nebraska; Sac and Fox Tribe of the Mississippi in Iowa; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Turtle Mountain Band of Chippewa Indians of North Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; White Earth Band of the Minnesota Chippewa Tribe, Minnesota; and Yankton Sioux Tribe of South Dakota.

In 1934, human remains representing one individual were donated to the Peabody Museum of Archaeology and Ethnology by the Museum of Comparative Zoology, Harvard University, Cambridge, MA. No known individual was identified. No associated funerary objects are present.

Museum records indicate that these remains were collected in 1883 from Fort Pierre, SD, by an unknown person. These human remains were accessioned by the Peabody Museum of Archaeology and Ethnology in 1939. Museum records also indicate that the remains are those of a ''Sioux'' individual, indicating that the collector was aware of the culture of the individual.

Based on the specific cultural attribution in museum records, geographic evidence, and the historical association of the Sioux with this locale, these human remains are considered to be affiliated to the Sioux tribes. The Sioux tribes are represented by the present-day Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; and the Yankton Sioux Tribe of South Dakota. Consultation with representatives of the Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota indicated that they do not feel that their group is affiliated with the human remains described here.

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 are reasonably believed to be 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 human remains and the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; and the Yankton Sioux Tribe of South Dakota.

This notice has been sent to officials of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; Minnesota Chippewa Tribe, Minnesota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota; Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac and Fox Nation, Oklahoma; Sac and Fox Nation of Missouri in Kansas and Nebraska; Sac and Fox Tribe of the Mississippi in Iowa; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Turtle Mountain Band of Chippewa Indians of North Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; White Earth Band of the Minnesota Chippewa Tribe, Minnesota; and Yankton Sioux Tribe of South Dakota. 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, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495-2254, before May 3, 2001. Repatriation of the human remains to the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Santee Sioux Tribe of the Santee Reservation of Nebraska; Shakopee Mdewakanton Sioux Community of Minnesota; Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota; Standing Rock Sioux Tribe of

North & South Dakota; Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota; and Yankton Sioux Tribe of South Dakota may begin after that date if no additional claimants come forward.

Dated: March 21, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–8170 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–70–P

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.

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 the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Comanche Indian Tribe, Oklahoma.

On October 1, 1877, human remains representing one individual were donated to the Peabody Museum of Archaeology and Ethnology by Dr. T.O. Summers of Nashville, TN. No known individual was identified. No associated funerary objects are present.

Museum records indicate that the collector, the collection dates, and the specific site from which the remains were collected are unknown. Peabody Museum of Archaeology and Ethnology accession records indicate that the remains are those of a ''Comanche'' individual from the ''Plains region.'' The attribution of such a specific cultural affiliation to the human remains indicates that, at the time that the remains were acquired, the collector probably had direct knowledge of the individual's cultural affiliation. This information indicates that the remains probably date to the historic period and are the remains of a Comanche individual. The Comanche are represented by the present-day Comanche Indian 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 Comanche Indian Tribe, Oklahoma.

This notice has been sent to officials of the Comanche Indian 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) 495–2254, before May 3, 2001. Repatriation of the human remains to the Comanche Indian Tribe, Oklahoma may begin after that date if no additional claimants come forward.

Dated: March 21, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–8171 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–70–P

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 the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota.

In 1879, human remains representing one individual were donated to the Peabody Museum of Archaeology and Ethnology by Alexander Agassiz. No known individual was identified. No associated funerary objects are present.

Museum records indicate that these human remains were collected by Brevet Colonel Coppinger at an unknown date. Peabody Museum of Archaeology and Ethnology accession records indicate that the remains are those of a ''Siouan, Ogallaga'' individual from the ''Plains region.'' The specific site from which the remains were collected is unknown. The attribution of such a specific cultural affiliation to the human remains indicates that, at the time that the remains were acquired, the collector probably had direct knowledge of the individual's cultural affiliation. This information indicates that the remains probably date to the historic period and are the remains of an Oglala Sioux individual. The Oglala Sioux are represented by the present-day Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota.

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 Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota.

This notice has been sent to officials of the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota. 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) 495–2254, before May 3, 2001. Repatriation of the human remains to the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota may begin after that date if no additional claimants come forward.

Dated: March 21, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–8172 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–70–P

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.

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 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 Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho; the Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation, Washington; the Confederated Tribes of the Colville Reservation, Washington; the Confederated Tribes of the Umatilla Reservation, Oregon; the Nez Perce Tribe of Idaho; and the Spokane Tribe of the Spokane Reservation, Washington.

In 1871, human remains representing one individual were collected from the banks of the Snake River at the mouth of Tucannon, near Fort Taylor, Columbia County, WA, by C.R. Greenleaf. In 1872, Mr. Greenleaf gifted these human remains to the Peabody Museum of Archaeology and Ethnology. No known individual was identified. No associated funerary objects are present.

Museum documentation identifies this individual as a ''Palouse Indian.'' The attribution of such a specific cultural affiliation to the human remains indicates that the interment post-dates sustained contact between indigenous groups and Europeans beginning in the early 19th century. The human remains were from an area commonly considered to be traditional Palouse territory during this period. Oral traditions and historic evidence indicate that although some Palouse People occupied their traditional territory until the mid-1900s, many Palouse people went to live on neighboring reservations beginning in the late 19th century, where they continue to maintain their identity as Palouse people. Based on consultation with the Indian tribes listed above, the present-day tribes representing the Palouse people are the Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation, Washington; the Confederated Tribes of the Colville Reservation, Washington; and the Nez Perce Tribe of Idaho.

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 individuals 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 Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation, Washington; the Confederated Tribes of the Colville Reservation, Washington; and the Nez Perce Tribe of Idaho. This notice has been sent to officials of the Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho; the Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation, Washington; the Confederated Tribes of the Colville Reservation, Washington; the Confederated Tribes of the Unatilla Reservation, Oregon; the Nez Perce Tribe of Idaho; and the Spokane Tribe of the Spokane Reservation, Washington. 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, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495–2254, before May 3, 2001. Repatriation of the human remains to the Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation, Washington; the Confederated Tribes of the Colville Reservation, Washington; and the Nez Perce Tribe of Idaho may begin after that date if no additional claimants come forward.

Dated: March 20, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–8173 Filed 4–2–01; 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.

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 associated funerary object was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Karuk Tribe of California.

In 1914, a feather band was donated to the Peabody Museum of Archaeology and Ethnology by Lewis H. Farlow through Grace A. Nicholson. No human remains are present.

Museum records indicate that this feather band is from California and is attributed to the Karuk Tribe of California. The style of manufacture and materials are also consistent with Karuk feather-work items. Grace Nicholson's notes indicate that this type of band or sash was traditionally placed on the body from the right shoulder to the left side. Consultation with representatives of the Karuk Tribe of California indicates that the band was part of a doctor's outfit and had been made with the sole intent of being buried with an individual as part of a death rite and for no other purpose.

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)(2)(i), the one object listed above is reasonably believed to have been made exclusively for burial purposes as part of the death rite or ceremony. 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 this associated funerary object and the Karuk Tribe of California. This notice has been sent to officials of the Karuk Tribe of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this associated funerary object should contact Barbara Isaac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495–2254, before May 3, 2001. Repatriation of the associated funerary object to the Karuk Tribe of California may begin after that date if no additional claimants come forward.

Dated: March 20, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–8174 Filed 4–2–01; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[USITC SE–01–011]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: April 6, 2001 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–921 (Preliminary)(Folding Gift Boxes from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on April 6, 2001; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on April 13, 2001.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: March 28, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–8263 Filed 3–30–01; 12:24 pm]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[USITC SE–01–012]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: April 9, 2001 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none
2. Minutes
3. Ratification List
4. Inv. Nos. 731–TA–703 and 705 (Review)(Furfuryl Alcohol from China and Thailand)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on April 20, 2001.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: March 28, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–8264 Filed 3–30–01; 12:24 pm]

BILLING CODE 7020–02–U

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D–10888]

Withdrawal of Notice of Proposed Exemption Involving the Joliet Medical Group, Ltd. Employees Retirement Plan & Trust (the Plan); Located in Joliet, IL

In the **Federal Register** dated February 15, 2001 (66 FR 10526), the Department of Labor (the Department) published a notice of proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986. The notice of proposed exemption, for which retroactive relief had been requested, would allow the past and continued leasing of a medical clinic located at 2100 Glenwood Ave., Joliet, Illinois, from the Plan to the Joliet Medical Group, Ltd.

The Department has hereby determined to withdraw the notice of proposed exemption.

Signed at Washington, DC, this 29th day of March, 2001.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–8154 Filed 4–2–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2001–11; Exemption Application No. D–10760, et al.]

Grant of Individual Exemptions; Salomon Smith Barney Inc. (SSB), Citigroup Inc. (Citigroup) and their Affiliates (collectively, the Applicants)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Salomon Smith Barney Inc. (SSB), Citigroup Inc. (Citigroup) and their Affiliates (collectively, the Applicants)

Located in New York, New York

[Prohibited Transaction Exemption 2001–11; Exemption Application Number D–10760]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to: (1) the purchase or sale by employee benefit plans (the Plans), other than Plans sponsored and maintained by the Applicants, of publicly-traded debt securities (the Debt Securities) issued by the Applicants; and (2) the extension of credit by the Plans to the Applicants in connection with the holding of the Debt Securities.

This exemption is subject to the general conditions that are set forth below in Section II.

Section II. General Conditions

(a) The Debt Securities are made available by the Applicants in the ordinary course of their business to Plans as well as to customers which are not Plans.

(b) The decision to invest in the Debt Securities is made by a Plan fiduciary (the Independent Plan Fiduciary) or a participant in a Plan that provides for participant-directed investments (the Plan Participant), which is independent of the Applicants.

(c) The Applicants do not have any discretionary authority or control or provide any investment advice, within the meaning of 29 CFR 2510.3–21(c), with respect to the Plan assets involved in the transactions.

(d) The Plans pay no fees or commissions to the Applicants in connection with the transactions covered by the requested exemption, other than the mark-up for a principal transaction permissible under Part II of Prohibited Transaction Class Exemption (PTCE) 75–1 (40 FR 50845, October 31, 1975).[1]

(e) The issuer of the Debt Securities (the Issuer) agrees to notify Plan investors in the prospectus (the Prospectus) for the Debt Securities that, at the time of acquisition, no more than 15 percent of a Plan's assets should be invested in any of the Debt Securities.

(f) The Debt Securities do not have a duration which exceeds 9 years from the date of issuance.

(g) Prior to a Plan's acquisition of any of the Debt Securities, the Applicants fully disclose, in the Prospectus, to the Independent Plan Fiduciary or Plan Participant, all of the terms and conditions of such Debt Securities, including, but not limited to, the following:

(1) A statement to the effect that the return calculated for the Debt Securities will be denominated in U.S. dollars;

(2) The specified index (the Index) or Indexes on which the rate of return on the Debt Securities is based;

(3) A numerical example, designed to be understood by the average investor, which explains the calculation of the return on the Debt Securities at maturity and reflects, among other things, (i) a hypothetical initial value and closing value of the applicable Index, and (ii) the effect of any adjustment factor on the percentage change in the applicable Index;

(4) The date on which the Debt Securities are issued;

(5) The date on which the Debt Securities will mature and the conditions of such maturity;

(6) The initial date on which the value of the Index is calculated;

(7) Any adjustment factor or other numerical methodology that would affect the rate of return, if applicable;

(8) The ending date on which interest is determined, calculated and paid;

(9) Information relating to the calculation of payments of principal and interest, including a representation to the effect that, at maturity, the beneficial owner of the Debt Securities is entitled to receive the entire principal amount, plus an amount derived directly from the growth in the Index (but in no event less than zero);

(10) All details regarding the methodology for measuring performance;

(11) The terms under which the Debt Securities may be redeemed;

(12) The exchange or market where the Debt Securities are traded or maintained; and

[1] The Department is providing no opinion herein as to whether any principal transactions involving debt securities would be covered by PTCE 75–1, or whether any particular mark-up by a broker-dealer for such transaction would be permissible under Part II of PTCE 75–1.

(13) Copies of the proposed and final exemptions relating to the exemptive relief provided herein, upon request.

(h) The terms of a Plan's investment in the Debt Securities are at least as favorable to the Plan as those available to an unrelated non-Plan investor in a comparable arm's length transaction at the time of such acquisition.

(i) In the event the Debt Securities are delisted from any nationally-recognized securities exchange, the Issuer will apply to list the Debt Securities on another nationally recognized exchange or apply for trading through the National Association of Securities Dealers Automated Quotations System (NASDAQ), which requires that there be independent market-makers establishing a market for such securities in addition to the Issuer. If there are no independent market-makers, the exemption will no longer be considered effective.

(j) The Debt Securities are rated in one of the three highest generic rating categories by at least one nationally-recognized statistical rating service at the time of their acquisition.

(k) The rate of return for the Debt Securities is objectively determined and, following issuance, the Applicants retain no authority to affect the determination of the return for such security, other than in connection with a ''market disruption event'' (the Market Disruption Event) that is described in the Prospectus for the Debt Securities.

(l) The Debt Securities are based on an Index that is—

(1) Created and maintained [2] by an entity that is unrelated to the Applicants and is a standardized and generally-accepted Index of securities; or

(2) Created by the Applicants, but maintained by an entity that is unrelated to the Applicants,

(i) Consists either of standardized and generally-accepted Indexes or an Index comprised of publicly-traded securities that are not issued by the Applicants, are designated in advance and listed in the Prospectus for the Debt Securities (Under either circumstance, the Applicants may not unilaterally modify the composition of the Index, including the methodology comprising the rate of return.),

(ii) Meets the requirements for an Index in Rule 19b–4 (Rule 19b–4) under the Securities Exchange Act of 1934 (the 1934 Securities Act), and

(iii) The index value (the Index Value) for the Index is publicly-disseminated through an independent pricing service, such as Reuters Group, PLC (Reuters) or Bloomberg L.P. (Bloomberg), or through a national securities exchange.

(m) The Applicants do not trade in any way intended to affect the value of the Debt Securities through holding or trading in the securities which comprise an Index.

(n) The Applicants maintain, for a period of six years, the records necessary to enable the persons described in paragraph (o) of this section to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Applicants, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than the Applicants shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (o) below.

(o)(1) Except as provided in section (o)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (n) are unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC);

(B) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any Plan Participant or beneficiary of any participating Plan, or any duly authorized representative of such Plan Participant or beneficiary.

(2) None of the persons described above in subparagraphs (B)–(D) of paragraph (o)(1) are authorized to examine the trade secrets of the Applicants or commercial or financial information which is privileged or confidential.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on February 15, 2001 at 66 FR 10521.

Written Comments

The Department received one comment letter with respect to the Notice. The comment letter was submitted by the Applicants, who requested certain minor changes to the proposed exemption.

First, the Applicants requested that the reference to ''Citigroup'' in Section II, paragraph (e), of the Notice should be changed to ''the Issuer.'' In this regard, the Applicants note that the obligation to produce a prospectus for any Debt Securities issued by the Applicants will reside with the Issuer of the Debt Securities, and not with its parent. Similarly, the Applicants requested that the two references to ''Citigroup'' in Section II, paragraph (i), of the Notice should be changed to ''the Issuer'' since listing requirements will be handled by the Issuer rather than its parent. The Applicants noted that these changes would make Section II(i) consistent with Item 12 of the ''Summary of Facts and Representations'' (SFR) contained in the Notice.

In addition, the Applicants requested that the language in Section II, paragraph (i), should be modified to clarify that, upon a delisting of the Debt Securities from a nationally recognized exchange, the Issuer may choose to list the Debt Securities on another nationally recognized exchange as an alternative to applying for trading through NASDAQ.

The Department agrees with the Applicants' comments and suggested changes, and has modified the language of the final exemption accordingly.

With respect to the information contained in the SFR, the Applicants requested three changes.

First, the last sentence of the first paragraph of Item 5 states that the Debt Securities will be issued in denominations of $10 per unit. The Applicants note that although currently only $10 denominations have been issued, SSB would like to be able to use other denominations should the need arise. Accordingly, the Applicants request that the word ''generally'' be inserted between ''would'' and ''be'' in that sentence to allow for variation in the denominations of any future issuance.

Second, the first paragraph of Item 12 in the SFR discusses the availability of price quotations. Since the Debt Securities may not always meet the necessary requirements for being listed in the daily financial press, which may exclude certain securities due to space constraints, SSB requests that the word ''and'' in the first paragraph of Item 12 in the SFR be changed to ''or'' since

[2] For purposes of this exemption, the term ''maintain'' means that all calculations relating to the securities in the Index, as well as the rate of return of the Index, are made by an entity that is unrelated to the Applicants.

quotes will be available through market reporting services even when not included in the press listings.

Third, the Applicants noted that the second sentence in Item 12 of the SFR should be modified to conform to the change requested to Section II, paragraph (i), above, that, upon any delisting of the Debt Securities from a nationally recognized exchange, the Issuer may choose to list the Debt Securities on another nationally recognized exchange as an alternative to applying for trading through NASDAQ.

Accordingly, based on the entire record, the Department has determined to grant the exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Reagent Chemical & Research, Inc. Employees Profit Sharing Plan and Trust (the Plan)

Located in Middlesex, New Jersey

[Prohibited Transaction Exemption 2001–12; Exemption Application No. D–10793]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a certain residential lot (the Property) by the Plan to Mr. Brian Skeuse and Mrs. Jan Skeuse, parties in interest with respect to the Plan; provided that the following conditions are satisfied:

(a) the sale is a one-time cash transaction;

(b) the Plan receives the greater of either: (i) $105,000; or (ii) the current fair market value for the Property established at the time of the sale by an independent qualified appraiser; and

(c) the Plan pays no commissions or other expenses associated with the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 22, 2001 at 66 FR 6688.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

The Amalgamated Cotton Garment & Allied Industries Fund-Retirement Fund

Located in New York, New York

[Prohibited Transaction Exemption 2001–13; Exemption Application No.: D–10947]

Exemption

The restrictions of sections 406(a)(1)(A), 406(a)(1)(D), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code,[3] shall not apply to the purchase by the Amalgamated Cotton Garment & Allied Industries Fund-Retirement Fund (the Cotton Pension Fund) from the Amalgamated Insurance Fund-Insurance Fund (the Clothing Welfare Fund), a party in interest with respect to the Cotton Pension Fund, of 100 percent (100%) of the outstanding shares of non-publicly traded common stock (the Common Stock) of ALICO Services Corporation (ASC), a service provider to the Cotton Pension Fund; provided that prior to the transaction: (a) An independent fiduciary (the I/F), acting on behalf of the Cotton Pension Fund determines that the transaction is feasible, in the interest of, and protective of the Cotton Pension Fund and its participants and beneficiaries; (b) the I/F determines, on behalf of the Cotton Pension Fund, that the ASC Common Stock should be purchased by the Cotton Pension Fund; (c) the I/F reviews, negotiates, and approves the terms of the purchase of the ASC Common Stock; (d) the I/F monitors the terms of the purchase of the ASC Common Stock and ensures that the Cotton Pension Fund and the Clothing Welfare Fund comply with the approved terms; (e) the I/F determines that the terms of the purchase of the ASC Common Stock are no less favorable to the Cotton Pension Fund than terms negotiated at arm's length with an unrelated third party under similar circumstances; (f) the I/F determines, as of the date the transaction is entered, that the purchase price for the ASC Common Stock paid by Cotton Pension Fund is the fair market value of such stock, not to exceed $30 million; (g) an independent, qualified appraiser issues a fairness opinion as to the price of the ASC Common Stock and determines, as of the date the transaction is entered, that the Clothing Welfare Fund is receiving the fair market value for such stock, not to exceed $30 million; (h) the Cotton Pension Fund incurs no fees, commissions, or other charges or expenses as a result of its participation in the transaction other than the following: (1) the fees incurred in making this exemption request, (2) the fee payable to the I/F, and (3) the fees payable to the parties representing the Cotton Pension Fund in the transaction; (i) the transaction is a one-time occurrence for cash; and (j) a committee composed of members of the Board of Trustees of the Clothing Welfare Fund determines that such fund should engage in the transaction and, if so, such committee is authorized to set the terms and conditions under which the Clothing Welfare Fund will engage in such transaction.

EFFECTIVE DATE: This exemption is effective on March 26, 2001, or the date on which the subject transaction closes.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing on the proposed exemption. As set forth in the Notice, interested persons consist of the trustees of the Cotton Pension Fund and the trustees of the Clothing Welfare Fund, all of the participants and beneficiaries of such funds, UNITE, whose members are participants in the Funds, all contributing employers of such funds, ASC, and the ASC Subsidiaries. The deadline for submission of such comments was within forty-five (45) days of the date of the publication of the Notice in the **Federal Register** on January 25, 2001. All comments and requests for a hearing were due on March 12, 2001.

During the comment period, the Department received no requests for a hearing. However, the Department did receive comment letters from twenty (20) commentators. At the close of the comment period, the Department forwarded copies of these letters to the applicant for a written response. A description of the comments and the applicant's responses thereto are summarized below.

Upon review of the comment letters, the applicant determined that the various concerns raised by the commentators fell into the following categories: (a) Ten (10) letters requesting confirmation that benefits will not be decreased or affected; (b) nine (9) letters asking for information about benefits and/or a claim for benefits; and (c) one (1) letter requesting that plan records concerning a participant's address be updated. In response to these

[3] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer to the corresponding provisions of the Code.

comments, the applicant forwarded the letters to the appropriate parties at the Cotton Pension Fund and the Clothing Welfare Fund, so that the concerns expressed by the commentators could be addressed.

As the comments do not pertain to the transaction which is the subject of the exemption, the Department has concluded that it is appropriate for the issues identified by the commentators to be addressed by individuals at the Cotton Pension Fund and the Clothing Welfare Fund.

In addition, to the letters from commentators, the Department received a comment letter from the applicant. In this regard, in a letter dated March 9, 2001, the applicant made four comments, three (3) of which concerned modifications to the language of the exemption, as proposed, and one which concerned an amendment to the language of the Summary of Facts and Representations (SFR) in the Notice. Subsequently, in a letter dated March 13, 2001, the applicant withdrew all but one comment. In that comment, the applicant suggested that the Department delete the following language that appeared in the SFR in the Notice: ''The Clothing Welfare Fund has requested an individual exemption in order to sell to the Cotton Pension Fund all of the outstanding shares of ASC Common Stock.'' In place of that sentence, the applicant suggests the following language: ''The Cotton Pension Fund has requested an individual exemption in order to purchase from the Clothing Welfare Fund all of the outstanding shares of ASC Common Stock.'' The applicant maintains that this change is necessary because the Cotton Pension Fund made the application for the prohibited transaction exemption, not the Clothing Welfare Fund.

The Department concurs. Accordingly, the first sentence of paragraph 6 of the SFR in the Notice, should have read as follows: ''The Cotton Pension Fund has requested an individual exemption in order to purchase from the Clothing Welfare Fund all of the outstanding shares of ASC Common Stock.''

In the Notice the Department stated that the proposed exemption, if granted, would be effective on the date that the subject transaction closes, or March 15, 2001, whichever is earlier. However, in a letter dated March 16, 2001, the applicant informed the Department that the Cotton Pension Fund and the Clothing Welfare Fund have scheduled March 26, 2001, as the closing date for the transaction contemplated by the exemption. Accordingly, the Department has changed the effective date of the exemption to read: ''This exemption is effective on March 26, 2001, or the date on which the subject transaction closes.''

After giving full consideration to the entire record, including the written comments from the applicant and the commentators, the Department has decided to grant the exemption. In this regard, the comment letters submitted to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on January 25, 2001, at 66 FR 7810.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 29th day of March, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–8155 Filed 4–2–01; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of April 2, 9, 16, 23, 30, May 7, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Matters To Be Considered

Week of April 2, 2001

There are no meetings scheduled for the Week of April 2, 2001.

Week of April 9, 2001—Tentative

Monday, April 9, 2001

1:30 p.m.—Briefing on 10 CFR Part 71 Rulemaking (Public Meeting) (Contacts: Naiem Tanious, 301–415–6103; David Pstrak, 301–415–8486)

Tuesday, April 10, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (if needed)

10:30 a.m.—Meeting on Rulemaking and Guidance Development for Uranium Recovery Industry (Public Meeting) (Contact: Michael Layton, 301–415–6676)

Week of April 16, 2001—Tentative

There are no meetings scheduled for the Week of April 16, 2001.

Week of April 23, 2001—Tentative

Tuesday, April 24, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (if needed)

10:30 a.m.—Discussion of Intragovernmental Issues (Closed—Ex. 9)

Week of April 30, 2001—Tentative

There are no meetings scheduled for the Week of April 30, 2001.

Week of May 7, 2001—Tentative

Thursday, May 10, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (If needed)

10:30 a.m.—Briefing on Office of Nuclear Regulatory Research (RES) Programs and Performance (Public Meeting) (Contact: James Johnson, 301–415–6802)

Friday, May 11, 2001

10:30 a.m.—Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360)

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm*.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301) 415–1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: March 29, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–8232 Filed 3–30–01; 10:30 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before May 3, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Stockholders Confirmation (Corporation) Ownership Confirmation (Partnership).

No.: 1405.

Frequency: On occasion.

Description of Respondents: Newly licensed SBIC's.

Annual Responses: 600.

Annual Burden: 600.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–8063 Filed 4–2–01; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

Agreement on Social Security between the United States and the Republic of Korea; Entry Into Force

The Acting Commissioner of Social Security gives notice that an agreement coordinating the United States (U.S.) and Korean social security programs entered into force on April 1, 2001. The agreement with the Republic of Korea, which was signed on March 13, 2000, is similar to U.S. social security agreements already in force with 17 other countries—Austria, Belgium, Canada, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Agreements of this type are authorized by section 233 of the Social Security Act.

Like the other agreements, the U.S.-Korean agreement eliminates dual social security coverage—the situation that exists when a worker from one country works in the other country and is covered under the social security systems of both countries for the same work. When dual coverage occurs, the worker or the worker's employer or both may be required to pay social security contributions to the two countries simultaneously. Under the U.S.-Korean agreement, a worker who is sent by an employer in one country to work in the other country for 5 years or less remains covered only by the sending country. The agreement includes additional rules that eliminate dual U.S. and Korean coverage in other work situations.

The agreement also helps eliminate situations where workers suffer a loss of benefit rights because they have divided their careers between the two countries. Under the agreement, workers may qualify for partial U.S. benefits or partial Korean benefits based on combined (totalized) work credits from both countries.

Individuals who wish to obtain copies of the agreement or want more information about its provisions may write to the Social Security Administration, Office of International Programs, Post Office Box 17741, Baltimore, MD 21235–7741 or visit the Social Security web site at *www.ssa.gov/international*.

Dated: March 28, 2001.

William A. Halter,

Acting Commissioner of Social Security.

[FR Doc. 01–8103 Filed 4–2–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

Office of the Procurement Executive

[Public Notice 3629]

Notice of Information Collection Under Emergency Review: Department of State Acquisition Regulation; OMB Control Number 1405–0050

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

Type of Request: Extension of a currently approved collection with minor changes.

Originating Office: Bureau of Administration; Office of the Procurement Executive (A/OPE).

Title of Information Collection: Department of State Acquisition Regulation (DOSAR).

Frequency: On occasion.

Form Number: N/A.

Respondents: Any business, other for-profit, individual, or not-for-profit

organization wishing to compete for and receive Department of State contracts.

Estimated Number of Respondents: 2,790.

Average Hours Per Response: Varies.

Total Estimated Burden: 225,503 hours.

The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by March 31, 2001. If granted, the emergency approval is only valid for 180 days. Comments should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until 60 days from the date that this notice is published in the **Federal Register**. The agency requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Gladys Gines, Procurement Analyst, Office of the Procurement Executive, U.S. Department of State, Washington, DC 20520; telephone (703)516–1691; e-mail address: ginesgg@state.gov

Dated: February 15, 2001.

Lloyd W. Pratsch,

Procurement Executive, Department of State.

[FR Doc. 01–8148 Filed 4–2–01; 8:45 am]

BILLING CODE 4710–05–U

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9258]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice announces the FMCSA's receipt of applications from 38 individuals for an exemption from the vision requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before May 3, 2001.

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

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Ms. Elaine Walls, Office of the Chief Counsel, (202) 366–1394, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Thirty-eight individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemptions will achieve the required level of safety.

Qualifications of Applicants

1. Jerry T. Branam

Mr. Branam, 60, has amblyopia in the right eye. His best-corrected visual acuities are 20/200 in the right eye and 20/25 in the left eye. An optometrist examined him in 2000, and stated, ''With his previous experience and the above findings [relating to visual acuity and fields of vision], it is my opinion that Mr. Branam has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Branam reported that he has operated tractor-trailer combinations for 30 years, and has accumulated 2.4 million miles. He holds a Class D regular license from Tennessee, but held a Class A commercial driver's license (CDL) for the 3-year period prior to his date of application. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

2. Daniel R. Brewer

Mr. Brewer, age 52, has had amblyopia in his left eye since childhood. His corrected visual acuity is 20/25 in the right eye and 20/200 in the left. Following an examination in 2000, his ophthalmologist stated, ''In my opinion, his vision is adequate to perform driving tasks necessary for a commercial vehicle.'' Mr. Brewer submitted that he has driven straight trucks for 18 years and 1.0 million miles; and tractor-trailer combinations for 4 years and 280,000 miles. He holds a Class A CDL from the State of Washington, and during the last 3 years, he has had no accidents or convictions for moving violations in a CMV.

3. Brett L. Condon

Mr. Condon, 40, has had no vision in his right eye since birth. His best-corrected visual acuity is 20/20 in the left eye. An ophthalmologist examined him in 2000 and stated, ''In my medical

opinion Mr. Condon has sufficient vision to operate a commercial vehicle.'' According to Mr. Condon's application, he has 24 years of experience driving straight trucks, totaling 300,000 miles; and 18 years of experience driving tractor-trailers, totaling 180,000 miles. He holds a Maryland Class A CDL and has had no accidents or moving violations in a CMV for the past 3 years.

4. Mark W. Coulson

Mr. Coulson, 55, has amblyopia in his left eye. His corrected vision is 20/20 in the right eye and 20/400 in the left eye. Following an examination in 2000, his optometrist concluded, ''Mark is able to see to operate a commercial vehicle without glasses.'' Mr. Coulson submitted that he has driven straight trucks for 29 years, reaching 725,000 miles. He holds a Class BM CDL from Maryland, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

5. Thomas W. Craig

Mr. Craig, 63, is blind in his right eye due to an injury at age 2. The visual acuity in his left eye is 20/20 with correction. After examining him in 2000, his optometrist certified, ''In my opinion he has sufficient vision to operate a commercial vehicle.'' Mr. Craig reported that he has driven straight trucks for 37 years and 1.8 million miles. He holds a Class B CDL from Tennessee, and his driving record for the last 3 years shows that he has had no accidents or convictions for moving violations in a CMV.

6. Myron D. Dixon

Mr. Dixon, 50, is blind in his right eye due to trauma in 1972. He has no light perception in his right eye, and visual acuity of 20/20 in his left eye. As the result of an examination in 2000, his ophthalmologist concluded, ''I feel that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Dixon reported that he has 15 years and 360,000 miles of experience operating passenger buses. He holds a Class B CDL from Texas, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

7. Terry W. Dooley

Mr. Dooley, 54, has strabismus and amblyopia in his left eye. He had an eye examination in 2000, which revealed best-corrected vision of 20/20 in the right eye and 20/400 vision in the left eye. The examining optometrist concluded, ''In my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Dooley reported that he has operated straight trucks for 30 years, traveling 1.2 million miles, and tractor-trailer combinations for 7 years, traveling 490,000 miles. He holds a Class A CDL from Georgia, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

8. James W. Harris

Mr. Harris, 49, has a small central scotoma in the center of his right eye, which occurred in 1997 as a result of a small hemorrhage. His best-corrected visual acuity is 20/150 in the right eye, and 20/30+ in the left eye. His optometrist examined him in 2000, and stated, ''It is my opinion, Mr. Harris has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Harris submitted that he has driven 2.6 million miles in tractor-trailer combination vehicles over 24 years, and 25,000 miles in straight trucks over one year. He holds a Class A CDL from Texas, and his driving record shows no accidents or convictions for moving violations in a CMV for the last 3 years.

9. Larry M. Hawkins

Mr. Hawkins, 48, is blind in his right eye due to trauma 5 years ago. The visual acuity, corrected, in his left eye is 20/20. In 2000, his optometrist examined him and certified, ''In my medical opinion this patient should have sufficient vision to operate a CMV.'' Mr. Hawkins reported that he has driven straight trucks for 28 years and 1.1 million miles, and tractor-trailer combinations for 10 years and 400,000 miles. His Class A CDL is from Arizona, and he has had no accidents or convictions for moving violations in a CMV in the last 3 years, according to his driving record.

10. George A. Hoffman III

Mr. Hoffman, 41, has amblyopia in his left eye. His uncorrected visual acuity is 20/15 in the right eye and 20/200 in the left eye. He was examined in 2001 by an optometrist, who stated, ''I certify that in my medical opinion, George A. Hoffman III has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hoffman submitted that he has driven straight trucks for 20 years, accumulating 400,000 miles. He holds a Class D driver's license from Florida. His driving record for the last 3 years shows that he had no accidents and was convicted for one moving violation—Failure to Obey Traffic Instructions Sign/Device—in a CMV.

11. Lee P. Holt

Mr. Holt, 33, has a corneal scar in his right eye due to an injury at age 15. His visual acuity is limited to counting fingers in the right eye, not correctable, and 20/20 in the left eye. Following an examination in 2000, his ophthalmologist certified, ''Mr. Holt's vision is stable for operating a commercial vehicle.'' Mr. Holt reported that he has driven tractor-trailer combinations for 3 years, accumulating 300,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—Failure to Obey Traffic Instruction—in a CMV.

12. Steve L. Hopkins

Mr. Hopkins, 46, suffered a traumatic retinal tear in his left eye in 1986. His visual acuity is 20/20 in the right eye, and limited to counting fingers in the left eye. Mr. Hopkins was examined in 2000, and his ophthalmologist stated, ''In my medical opinion, Steve Hopkins has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hopkins submitted that he has driven tractor-trailer combinations for 3 years, accumulating 75,000 miles. He holds an Idaho Class A CDL, and his driving record for the last 3 years contains no accidents and no convictions for moving violations in a CMV.

13. Donald A. Jahr

Mr. Jahr, 55, has amblyopia in his right eye. His best-corrected visual acuity is 20/70 in the right eye, and 20/20 in the left eye. As a result of a 2000 examination, his optometrist affirmed, ''In my opinion, Donald A. Jahr has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Jahr reported that he has driven tractor-trailer combination vehicles for 34 years and 5.1 million miles. He holds a Class A CDL from Michigan, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

14. Alfred C. Jenkins

Mr. Jenkins, 61, has had a deficit in central vision in his right eye from histoplasmosis since 1961. He sees 20/400, not correctable, with his right eye and 20/20, with correction, with his left eye. An optometrist examined him in 2000 and stated, ''I am convinced that his vision is sufficient to allow him to safely operate a commercial vehicle.''

Mr. Jenkins reported that he has driven straight trucks 46 years for 460,000 miles, and tractor-trailer combinations 21 years for 1.0 million miles. He holds a Texas Class A CDL, and has had no CMV accidents or convictions for moving violations for the past 3 years.

15. Donald L. Jensen

Mr. Jensen, 52, has amblyopia in his left eye. His best-corrected visual acuities are 20/15 in the right eye, and 20/80+2 in the left eye. An optometrist examined him in 2000 and stated, ''I certify that in my medical opinion, Mr. Jensen has more than sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' According to Mr. Jensen's application, he has driven 2.7 million miles in tractor-trailer combination vehicles over 27 years. He holds a Class A CDL from South Dakota. In the last 3 years he has had no accidents or convictions for moving violations in a CMV on his driving record.

16. Robert L. Joiner, Jr.

Mr. Joiner, 31, has amblyopia in his left eye. His visual acuity in the right eye is 20/20, and in the left eye, 20/200. An optometrist examined him in 2000, and affirmed, ''As the above information indicates, I feel Mr. Joiner has demonstrated sufficient vision to operate a commercial vehicle.'' Mr. Joiner stated he has driven tractor-trailer combinations for 6 years, accumulating 186,000 miles. He holds an Illinois Class AM CDL. His official driving record for the last 3 years shows no accidents and no convictions for moving violations in a CMV.

17. James P. Jones

Mr. Jones, 29, received an injury to the left eye at age 5. His visual acuity is 20/20 in the right eye without correction and 20/400 in the left eye with best correction. His ophthalmologist examined him in 2000, and affirmed, ''In my medical opinion, he does have adequate vision to safely operate a commercial vehicle and he has demonstrated this by safely doing so for approximately ten years.'' Mr. Jones stated that he has driven tractor-trailer combination vehicles for 9 years, accumulating 621,000 miles, and straight trucks for 2 years, accumulating 150,000 miles. He holds a Maine Class A CDL, and he has no accidents or convictions for moving violations on his driving record for the last 3 years.

18. Clarence R. Keller

Mr. Keller, 40, has been blind in his right eye since 1987, due to trauma. The visual acuity is 20/20 in his left eye. An optometrist examined him in 2001, and affirmed, ''I do not know the standards for commercial driving, but Mr. Keller is certainly capable of driving a commercial vehicle with his current level of acuity and visual field both day and night under inclement conditions, as would the average person.'' Mr. Keller indicated that he has driven straight trucks for 19 years over 1.0 million miles, while he has driven tractor-trailer combinations for 20 years over 600,000 miles. He holds a Class AM CDL from Alabama, and his driving record for the past 3 years shows no accidents or convictions for moving violations in a CMV.

19. Bruce E. King

Mr. King, 33, has amblyopia in his left eye. Best-corrected acuities are 20/15 in the right eye, and 20/60 in the left. As a result of an examination in 2000, his optometrist stated, ''I see no reason to deny Mr. King [a] license to drive a commercial vehicle as he has had this condition for nearly all of his life and it does not impair his ability to drive safely.'' According to Mr. King's application, he has driven straight trucks for 14 years, accumulating 280,000 miles, and tractor-trailer combinations for 2 years, accumulating 100,000 miles. He holds a Class A CDL from Virginia. In the last 3 years his driving record shows no accidents and one conviction, for speeding, in a CMV. The ticket indicated he was exceeding the speed limit by 11 mph.

20. Larry J. Lang

Mr. Lang, 47, has amblyopia in his right eye. His vision is 20/400 in the right eye, and 20/20, corrected, in the left eye. His optometrist examined him in 2000, and certified, ''I believe Mr. Lang has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Lang reported that he has driven tractor-trailer combinations and straight trucks for 16 years, accumulating 915,000 miles in the former, and 582,000 miles in the later. He holds a Tennessee Class A CDL, and in the last 3 years, he has had no accidents or convictions for moving violations in a CMV.

21. Dennis D. Lesperance

Mr. Lesperance, 51, has amblyopia in his left eye. His best-corrected visual acuities are 20/25 in his right eye, and 20/100 in his left. Following a 2000 examination, his optometrist noted, ''This patient has sufficient vision to perform driving tasks required of a commercial vehicle operator.'' According to Mr. Lesperance, he has operated straight trucks and tractor-trailer combinations for 25 years, accumulating 250,000 miles for each. A holder of a Class A CDL from Oregon, he has no accidents or citations for moving violations in a CMV for the last 3 years.

22. Ernest W. Lewis

Mr. Lewis, 56, is blind in the left eye due to central artery occlusion in 1997. His best-corrected visual acuity is 20/20 in the right eye. An ophthalmologist examined him in 2000, and affirmed, ''In my opinion, this patient has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Lewis submitted that he has driven tractor-trailer combinations for 24 years and straight trucks for 23 years, accumulating 2.4 million miles and 1.1 million miles, respectively. He holds a Class A CDL from Virginia. His driving record shows that he had no accidents and one conviction for a moving violation—Speeding—in a CMV during the last 3 years. He exceeded the speed limit by 9 mph.

23. John W. Locke

Mr. Locke, 59, has glaucoma in his left eye. His corrected visual acuity is 20/20 in the right eye, and 20/70 in the left. He was examined in 2000, and his ophthalmologist stated, ''Based on his binocular visual field, his visual acuity, and the fact that he has apparently been driving safely with this condition since April 1997, it is my medical opinion that Mr. Locke has sufficient vision to operate a commercial vehicle.'' In his application, Mr. Locke reported that he has driven tractor-trailer combinations for 16 years, accumulating 3.0 million miles. He holds a Texas Class A CDL, and has no accidents and one conviction for a moving violation—Speeding—in a CMV on his driving record for the past 3 years. His speed was 13 mph over the limit.

24. Herman G. Lovell

Mr. Lovell, 53, has had a chorioretinal scar in his left eye since childhood. The corrected vision in his right eye is 20/20 and in the left eye, 20/200. Following an examination in 2000, his optometrist certified, ''In my medical opinion, Mr. Lovell has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' According to his application, Mr. Lovell has operated tractor-trailer combinations for 31 years and 3.7 million miles; straight trucks 6 years and 60,000 miles; and buses 2 years and 1,000 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows one accident and no convictions for moving violations in a CMV. The accident

occurred when another vehicle, traveling in the opposite direction, moved into his lane and collided with his truck. The other driver was found to be at fault in the accident, and Mr. Lovell was not cited.

25. Ronald L. Maynard

Mr. Maynard, 48, had surgical removal of his left eye in 1986 because of a malignancy. The uncorrected vision in his right eye is 20/20. His ophthalmologist examined him in 2001, and commented, ''The patient's vision appears sufficient to perform commercial vehicle driving tasks considering the long-standing nature of his monocular status. He has excellent vision in his right eye and has had sufficient time to adapt to his monocular status.'' Mr. Maynard stated that he has driven tractor-trailer combinations for 10½ years, accumulating 840,000 miles, and straight trucks for 1½ years, accumulating 15,000 miles. He holds a Class A CDL from Texas, and his driving record shows that he has had no accidents or convictions for moving violations in a CMV during the last 3 years.

26. Larry T. Morrison

Mr. Morrison, 47, has amblyopia in his left eye. His vision in the right eye is 20/20, and in the left eye 20/200, not correctable. Following a 2000 examination, his optometrist stated, ''Mr. Morrison has sufficient vision to drive a commercial vehicle.'' In his application, Mr. Morrison reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.0 million miles. He holds an Alabama Class AM CDL, and has had no accidents and one conviction for a moving violation—Speeding—in a CMV for the past 3 years. He exceeded the speed limit by 12 mph.

27. Gayle G. Olson

Mr. Olson, 67, lost the vision in his left eye due to an arterial occlusion in 1996. His best vision with correction is 20/20 in the right eye. Following an examination in 2000, his optometrist certified, ''Gayle has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Olson submitted that he has driven tractor-trailer combinations for 5.2 million miles over 40 years. He holds a Nebraska Class A CDL, and his official driving record for the last 3 years shows no accidents and no convictions for moving violations in a CMV.

28. Eddie L. Paschal

Mr. Paschal, 62, has strabismus and amblyopia in his left eye. His visual acuity is 20/20 in the right eye, and 20/400 in the left eye. Following an examination in 2000, his optometrist stated, ''This is also to certify that in my medical opinion, Mr. Paschal has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Paschal submitted that he has driven tractor-trailer combination vehicles for 3 years and 240,000 miles. He holds a Class A CDL from North Carolina, and his driving record shows no accidents and one conviction for a moving violation—Speeding—in a CMV during the last 3 years. He exceeded the speed limit by 14 mph.

29. Richard S. Rehbein

Mr. Rehbein, 41, has a retinal scar in his left eye, resulting from congenital lesions. His best-corrected visual acuities are 20/20 in the right eye and 20/200 in the left eye. His optometrist examined him in 2000, and stated, ''In my opinion this [visual condition] will not affect his visual tasks and [he] can operate a commercial vehicle.'' Mr. Rehbein submitted that he has driven tractor-trailer combinations for 4 years and 140,000 miles. He holds a Class A license from Minnesota, and his driving record for the last 3 years shows that he had no accidents or convictions for a moving violation in a CMV.

30. David E. Sanders

Mr. Sanders, 36, has amblyopia in his left eye. His best-corrected vision is 20/20 in the right eye and 20/200 in the left. An optometrist examined him in 2000, and affirmed, ''This problem [amblyopia] in my professional opinion, should not prevent him from performing the driving tasks required to operate a commercial vehicle.'' Mr. Sanders indicated that he has driven straight trucks for 16 years, accumulating 921,000 miles, and tractor-trailer combination vehicles for 4 years, accumulating 200,000 miles. He holds a Class A CDL from North Carolina, and for the last 3 years he has had no accidents or convictions for moving violations in a CMV, according to his driving record.

31. Richard C. Simms

Mr. Simms, 53, has amblyopia in his left eye. His best-corrected visual acuities are 20/20 in the right eye and counting fingers in the left eye. His ophthalmologist examined him in 2000 and stated, ''In my opinion his visual function is sufficient to operate a commercial vehicle: any further delay in his certification would be inappropriate.'' Mr. Simms reported that he has driven straight trucks for 23 years, accumulating 1.1 million miles, and tractor-trailer combinations for 6 years, accumulating 120,000 miles. He holds a Class A CDL from Nevada, and he has no accidents or convictions for moving violations in a CMV on his driving record for the past three years.

32. David B. Speller

Mr. Speller, 43, has had a macular branch retinal vein occlusion in the right eye since July 1997. His visual acuity is 10/200 in the right eye, and 20/20 in the left eye. His ophthalmologist examined him in 2000, and certified, ''In my medical opinion, Mr. Speller has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' In his application, Mr. Speller reported that he has driven tractor-trailer combinations for 21 years, accumulating 1.5 million miles; and straight trucks for 4 years, accumulating 220,000 miles. He holds a Minnesota Class A CDL, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

33. Royal H. Stephens

Mr. Stephens, 55, has had an artificial right eye since 1974. His visual acuity is 20/15 best-corrected in the left eye. Following a 2000 examination, his optometrist stated, ''In my medical opinion, Mr. Stephens certainly has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Stephens reports that he has operated straight trucks for 25 years, accumulating 750,000 miles. He holds a Georgia Class C driver's license, and he has no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

34. Tyson C. Stone

Mr. Stone, 24, has amblyopia in his right eye. His uncorrected visual acuity is 20/150 in his right eye, and 20/25 in his left eye. An optometrist examined him in 2000, and stated, ''In my professional opinion, Mr. Stone has the visual skills to safely operate a commercial vehicle.'' In his application, Mr. Stone reported that he has driven straight trucks for 3 years, accumulating 30,000 miles. He holds a Utah Class D driver's license. His official driving record for the last 3 years shows no accidents and one conviction for a moving violation—Following Too Closely—in a CMV.

35. Lynn D. Veach

Mr. Veach, 54, has been blind in his left eye since 1958, due to an injury. His

visual acuity is 20/15 with correction in the right eye. His optometrist examined him in 2000 and stated, ''In my opinion Mr Veach is qualified to operate a commercial vehicle without any restrictions.'' In his application, Mr. Veach reported that he has driven tractor-trailer combination vehicles and straight trucks for 35 years, totaling 2.0 million miles and 100,000 miles, respectively. He holds an Iowa Class A CDL, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

36. Kevin L. Wickard

Mr. Wickard, 44, has amblyopia in his left eye. His best-corrected vision is 20/20 in the right eye and 20/100 in the left eye. The optometrist who examined him in 2000 stated, ''The vision in Mr. Wickard's right eye is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Wickard submitted that he has 22 years of experience driving tractor-trailer combinations for a total of 1.6 million miles; and 4 years of experience driving straight trucks for a total of 80,000 miles. He holds a Class A CDL from Pennsylvania, and for the last 3 years he has no accidents or convictions for moving violations in a CMV on his driving record.

37. Charles M. Wilkins

Mr. Wilkins, 47, has had amblyopia of the right eye and nystagmus since childhood. His best-corrected visual acuities are 20/40 in the right eye, and 20/25 in the left eye. In 2000 his optometrist examined him and affirmed, ''[The nearsightedness and nystagmus] have not presented him any problems in his driving or in performing his driving tasks for a commercial vehicle in all of the years that I have seen him. I do not anticipate that these will cause problems for him in his current position.'' Mr. Wilkins submitted that he has 28 years of experience driving tractor-trailer combinations over 2.1 million miles. He holds a Class A CDL from Indiana, and his driving record for the last 3 years has no accidents or convictions for a moving violation in a CMV.

38. Michael C. Wines

Mr. Wines, 42, has a chorioretinal scar in his left eye, due to an injury in 1971. He is able to see 20/20 with his right eye with correction, and 20/200 with his left eye. His ophthalmologist examined him in 2000, and stated, ''In my medical opinion, Mr. Wines has sufficient vision to perform the driving tasks required to operate a commercial vehicle as long as he has mirrors on both sides of the vehicle.'' Mr. Wines reported that he has driven straight trucks for 17 years and 59,000 miles. He holds a Maryland Class BM CDL, and he has no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable, but the FMCSA may publish in the **Federal Register** a notice of final determination at any time after the close of the comment period. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 322, 31136 and 31315; and 49 CFR 1.73.

Issued on March 27, 2001.

Stephen E. Barber,

Acting Deputy Administrator.

[FR Doc. 01–8176 Filed 4–2–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–9116; Notice 1]

Hankook Tire Corporation, Receipt of Application for Decision of Inconsequential Noncompliance

Hankook Tire Manufacturing Company, Ltd., a Korean corporation, has determined that approximately 7,600 P205/75R14 Dayton Thorobred tires produced in the Hankook Daejun Plant during August 2000 through January 2001 do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New Pneumatic Tires.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Hankook has petitioned for a determination that the noncompliance is inconsequential to motor vehicle safety. It has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

The noncompliance with S4.3.(a) relates to a mismarking of the tire size on one mold, Serial Number 24383. The actual stamping in the bead area of the DOT serial side only is P205/75R15 and the correct stamping should be P205/75R14.

Hankook states that the affected P205/75R14 Dayton Thorobred tires meet all other requirements of FMVSS No. 109. The larger predominant P205/75R14 markings on the mid-sidewall and markings on the tire labels are correct. Furthermore, the P205/75R14 tire could not be mounted on a 15″ wheel since the mounting machine could not apply sufficient force to mount the tire. Hankook submits that ''possible adverse effect upon motor vehicle safety, which could be attributed to the noncompliance, should be deemed inconsequential.''

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: May 3, 2001.

Authority: 49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 29, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–8177 Filed 4–2–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34023]

Mohall Railroad, Inc.—Acquisition and Operation Exemption—Line of The Burlington Northern and Santa Fe Railway Company

Mohall Railroad, Inc. (MRI), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 20.09 miles of rail line owned by The Burlington Northen and Santa Fe Railway Company (BNSF). The line to be acquired and operated extends from milepost 137.09 near Voss, ND, south to the end of the track, at milepost 117.0 near Honeyford, ND. MRI states that an agreement has been reached between BNSF and MRI, and a sales agreement will be executed prior to the anticipated sale closing on April 5, 2001, with the transfer of operations to MRI set for the later of April 6, 2001, or the March 29, 2001 effective date of the exemption. MRI certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and its revenues are not projected to exceed $5 million.[1]

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34023, 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, one copy of each pleading must be served on Byron D. Olsen, Esq., Felhaber, Larson, Fenlon & Vogt, P.A., 601 Second Avenue South, Suite 4200, Minneapolis, MN 55402.

Board decisions and notices are available on our website at ''www.stb.dot.gov.''

Decided: March 27, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–8143 Filed 4–2–01; 8:45 am]

BILLING CODE 4915–00–P

[1] MRI states that it will enter into an operating agreement with Northern Plains Railroad, Inc. (NPR), a Class III rail carrier, whereby NPR will be the operator of the line to be acquired by MRI. *See Northern Plains Railroad, Inc.—Lease and Operation Exemption—Certain Lines of Soo Line Railroad Company d/b/a Canadian Pacific Railway,* STB Finance Docket No. 33324 (STB served Jan. 9, 1997).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 27, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 3, 2001 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0052.

Form Number: ATF F 5130.9 and ATF F 5130.26.

Type of Review: Revision.

Title: Brewer's Report of Operations and Brewpub Report of Operations.

Description: Brewer's periodically file these reports of their operations to account for activity relating to taxable commodities. ATF uses this information primarily for revenue protection, for audit purposes, and to determine whether activity is in compliance with the requirements of law. We also use this information to publish periodical statistical releases of use and interest to the industry.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,750.

Estimated Burden Hours Per Respondent:

Form	Response Time (minutes)
ATF F 5130.9	45
ATF F 5130.26	30

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 7,800 hours.

OMB Number: 1512–0081.

Form Number: ATF F 5130.22, ATF F 5130.23, ATF F 5130.25 and ATF F 5130.27.

Type of Review: Revision.

Title: Brewer's Bonds and Continuation Certificates.

Description: The Internal Revenue Code requires brewers to give a bond to protect the revenue and to ensure compliance with the requirements of law and regulations. Bonds and continuation certificates are required by law and are necessary to protect government interests in the excise tax revenues that brewers pay.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,750.

Estimated Burden Hours Per Respondent: 45 minutes per form.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 600 hours.

Clearance Officer: Frank Bowers, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW, Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–8119 Filed 4–2–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–B

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–B, Proceeds From Broker and Barter Exchange Transactions.

DATES: Written comments should be received on or before June 4, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Proceeds From Broker and Barter Exchange Transactions.

OMB Number: 1545–0715.

Form Number: 1099–B.

Abstract: Internal Revenue Code section 6045 requires the filing of an information return by brokers to report the gross proceeds from transactions and by barter exchanges to report exchanges of property or services. Form 1099–B is used to report proceeds from these transactions to the Internal Revenue Service.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Responses: 117,611,875.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 29,402,969.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 28, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–8158 Filed 4–2–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8857

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8857, Request for Innocent Spouse Relief.

DATES: Written comments should be received on or before June 4, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Request for Innocent Spouse Relief.

OMB Number: 1545–1596.

Form Number: 8857.

Abstract: Section 6013(e) of the Internal Revenue Code allows taxpayers to request, and IRS to grant, ''innocent spouse'' relief when: the taxpayer files a joint return with tax substantially understated; the taxpayer establishes no knowledge of, or benefit from, the understatement; and it would be inequitable to hold the taxpayer liable. Form 8857 is used to request relief from liability of an understatement of tax on a joint return resulting from a grossly erroneous item attributable to the spouse.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 21,336.

Estimated Time Per Respondent: 58 minutes.

Estimated Total Annual Burden Hours: 21,123.

The following paragraph applies to all of the collections of information covered by this notice:

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

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 27, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–8159 Filed 4–2–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–5

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form W–5, Earned Income Credit Advance Payment Certificate.

DATES: Written comments should be received on or before June 4, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Earned Income Credit Advance Payment Certificate.

OMB Number: 1545–1342.

Form Number: W–5.

Abstract: Form W–5 is used by employees to see if they are eligible for the earned income credit and to request part of the credit in advance with their pay. Eligible employees who want advance payments must give Form W–5 to their employers. The employer uses the information on the form to compute the amount of the advance payment to include with the employee's pay.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 183,450.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 137,588.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 28, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–8160 Filed 4–2–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–INT

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–INT, Interest Income.

DATES: Written comments should be received on or before June 4, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Interest Income.

OMB Number: 1545–0112.

Form Number: 1099–INT.

Abstract: Form 1099–INT is used for reporting interest income paid, as required by sections 6049 and 6041 of the Internal Revenue Code. The IRS uses the form to verify compliance with the reporting rules and to verify that the recipient has included the proper amount of interest on his or her income tax return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Federal Government, individuals or households, and not-for-profit institutions.

Estimated Number of Responses: 275,797,664.

Estimated Time Per Response: 12 minutes.

Estimated Total Annual Burden Hours: 54,979,533.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 28, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–8161 Filed 4–2–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 943, 943–PR, 943–A, and 943A–PR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 943, Employer's Annual Tax Return for Agricultural Employees, 943–PR, Planilla Para La Declarcion Anual De La Contribucion Del Patrono De Empleados Agricolas, 943–A, Agricultural Employer's Record of Federal Tax Liability, and 943A–PR, Registro De La Obligacion Contributiva Del Patrono Agricola.

DATES: Written comments should be received on or before June 4, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3869, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Tax Return for Agricultural Employees (Form 943), Planilla Para La Declarcion Anual De La Contribucion Del Patrono De Empleados Agricolas (Form 943–PR), Agricultural Employer's Record of Federal Tax Liability (Form 943–A), and Registro De La Obligacion Contributiva Del Patrono Agricola (Form 943A–PR).

OMB Number: 1545–0035.

Form Numbers: 943, 943–PR, 943–A, and 943A–PR.

Abstract: Agricultural employers must prepare and file Form 943 and Form 943–PR (Puerto Rico only) to report and pay FICA taxes and income tax voluntarily withheld (Form 943 only). Agricultural employees may attach Forms 943–A and 943A–PR to Forms 943 and 943–PR to show their tax liabilities for semiweekly periods. The information is used to verify that the correct tax has been paid.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 392,443.

Estimated Time Per Respondent: 11 hr., 50 min.

Estimated Total Annual Burden Hours: 4,640,702.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 28, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–8162 Filed 4–2–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 66, No. 64
Tuesday, April 3, 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.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44073; File No. SR–CBOE–01–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Extending the Pilot Program for Rule 6.8(c) Regarding Operation of the Retail Automatic Execution System

March 14, 2001.

Correction

In notice document 01–7073 appearing on page 16077 in the issue of Thursday, March 22, 2001, the heading is corrected to read as set forth above.

[FR Doc. C1–7073 Filed 4–2–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
April 3, 2001

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1 and Parts 9, et al.

Federal Acquistion Regulations; Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings; Final Rule and Proposed Rule

Federal Acquistion Regulation; Small Entity Compliance Guide; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 14, 15, 31, and 52

[FAC 97–24, FAR Case 1999–010 (stay)]

RIN 9000–AI40

Federal Acquisition Regulation; Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule—reinstatement of text; stay of final rule; request for comments.

SUMMARY: The Federal Acquisition Regulation Council (FAR Council) published in the **Federal Register** at 65 FR 80255, December 20, 2000, a final rule addressing contractor responsibility and costs incurred in legal and other proceedings. After further review, the FAR Council is immediately staying that rule. The FAR Council intends the stay will last for 270 days from April 3, 2001, or until finalization of the proposed rule (entitled ''Contractor Responsibility, Labor Relations Cost, and Costs Relating to Legal and Other Proceedings'' that is being published concurrently with this interim rule), whichever is sooner. The FAR Council is requesting comments in this FAR interim rule on the length of the stay. During the stay, the FAR text is restored to the text as it existed before January 19, 2001. In a separate document being published today, the FAR Council is publishing a proposed rule, requesting comments under that FAR case on revoking the December 20, 2000, final rule.

DATES: *Effective Date:* Effective April 3, 2001, the rule published in the **Federal Register** at 65 FR 80255, December 20, 2000, is stayed indefinitely (except for the redesignation of 9.104–3(c) and (d) as 9.104–3(d) and (e); the designation of the text in 31.205–21 as paragraph (a); and the redesignation of 52.209–5(a)(1)(ii) as 52.209–5(a)(i)(iii)). The amendments made by this rule are effective April 3, 2001.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after January 19, 2001. Contracting officers must amend solicitations already issued that incorporated the certification provision(s) from the final rule published in the **Federal Register** on December 20, 2000 (65 FR 80255), to delete those certification provision(s) and insert the certification provision(s) in this rule.

Comment Date: Interested parties should submit comments in writing on or before June 4, 2001 to be considered in the formulation of a final rule concerning the stay.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.1999–010@gsa.gov. Please submit comments only and cite FAR case 1999–010 (stay) in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAC 97–24, FAR case 1999–010 (stay).

SUPPLEMENTARY INFORMATION:

A. Background

1. The Final Rule

The FAR Council published a proposed rule amending FAR Parts 9 and 31 in the **Federal Register** at 64 FR 37360, July 9, 1999. In response to the proposed rule, the FAR Council received more than 1500 letters. After reviewing the public comments, the FAR Council decided to republish the proposed rule with certain changes.

The FAR Council published a revised proposed rule amending FAR Parts 9, 14, 15, 31, and 52 in the **Federal Register** at 65 FR 40830, June 30, 2000. Over 300 public comments were received.

The final rule, which was published in the **Federal Register** at 65 FR 80255 on December 20, 2000, had an effective date of January 19, 2001, 30 days from date of publication.

The final rule included the following revisions:

FAR Part 9

Added language stating that a satisfactory record of integrity and business ethics includes satisfactory compliance with the law including tax, labor and employment, environmental, antitrust, and consumer protection laws (FAR 9.104–1(d)).

Required contracting officers to consider all relevant credible information but stated that the greatest weight must be given to offenses adjudicated within the past three years.

FAR Part 14 and 15

Directed contracting officers to notify offerors if the offerors were excluded based on a nonresponsibility determination.

FAR Part 31

At FAR 31.205–21, made unallowable those costs incurred for activities that assist, promote, or deter unionization.

At FAR 31.305–47, made unallowable those costs incurred in civil or administrative proceedings brought by a government where the contractor violated, or failed to comply with a law or regulation.

FAR Part 52

At FAR 52.209–5, amended the previous certification to require offerors to certify to additional violations (violations of tax, labor and employment, environmental, antitrust, or consumer protection laws) adjudicated within the last three years. It was a check-the-box certification. An offeror would have to provide additional detailed information only upon the request of the contracting officer.

At 52.212–3(h), made an equivalent change for the certification for commercial items.

2. The Lawsuit

The Business Roundtable, Chamber of Commerce of the United States, National Association of Manufacturers, Associated General Contractors of America, Inc., and Associated Builders and Contractors, Inc., filed a lawsuit in the United States District Court for the District of Columbia on December 22, 2000, seeking to overturn the final rule.

3. Letters

The FAR Council has received letters from major industry associations representing thousands of firms, and from Congressional Representatives, requesting an effective date extension of at least six months. Industry concerns extend especially to contractors' ability to comply with the rule's new certification requirements, which apply to procurements over $100,000.

4. Action

The FAR Council is reassessing the advantages and disadvantages of the changes made by the December 20, 2000, final rule, to determine if the benefits of the rule are outweighed by the burdens imposed by the rule. In this regard, it is not clear to the FAR Council

that there is a justification for including the added categories of covered laws in the rule and its implementing certification, that the rule provides contracting officers with sufficient guidelines to prevent arbitrary or otherwise abusive implementation, or that the final rule is justified from a cost benefit perspective. In a proposed rule also published today, the FAR Council is requesting public comments on revoking the final rule.

In the interim, the FAR Council has determined that the 30-day effective date did not give contractors, and the Government, sufficient time to meet the new obligations and responsibilities imposed by the final rule. Government contracting officers have not had sufficient training. Offerors have not had sufficient time to establish a system to track compliance with applicable laws and keep it current, in order to be able to properly fill out the certification. Although there is language in the noncommercial items certification which assures contractors that no system of records needs to be established to render the certification in good faith, this language is not found in the commercial items certification. There are criminal penalties for a false certification (18 U.S.C. 1001). The FAR Council now recognizes that it will take more time than it anticipated for businesses to put the systems in place.

Therefore, the FAR Council has decided to stay the final rule of December 20, 2000. The FAR Council intends the stay to last for 270 days from the date of publication of this interim rule, or until finalization of the proposed rule (published concurrently with this interim rule), whichever is sooner.

The final rule has only been in effect since January 19, 2001. There has not been time for the public to be in a position of reliance upon the rule's existence.

The previous FAR sections that were in effect, such as the previous version of the certification, are restored by this interim rule. The requirement that contractors must be responsible is statutory, and this stay does not relieve offerors of the requirement to have a satisfactory record of integrity and business ethics. Contracting officers will continue to have the authority and duty to make responsibility decisions. Agency debarring officials will continue to have the authority and duty to make determinations whether to suspend and debar a contractor. The Government still needs the information contained in the previous certifications, which covered such things as whether the contractor or its principals are presently debarred, or had a felony conviction for contract fraud.

The stay is not intended to be a statement that violations of the additional laws discussed in the December 20, 2000, rule could not have been considered in the past, or could not be considered in the future, by contracting officers or agency debarring officials.

The FAR Council is inviting comments in two rules. In this interim rule, FAR Case 1999–010, comments are requested on the length of the stay. In the accompanying proposed rule, FAR case 2001–014, comments are requested on the revocation of the December rule.

When staying Code of Federal Regulations text, if the previous text is restored, the **Federal Register** requires different numbering from the stayed text. The stayed text uses the numbering that was published in Federal Acquisition Circular 97–21. The revised numbering of the restored text is not a substantive change.

This is a significant rule and was subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and National Aeronautics and Space Administration certify that this action does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the action stays FAR revisions implemented under FAR case 1999–010 published in the **Federal Register** on December 20, 2000 (65 FR 80255), that did not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

This action does not impose any new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This stay is necessary because otherwise the rule imposes burdens that the Government and contractors are not prepared to meet. While the stay is in effect, the FAR Council will be collecting public comments about the length of the stay, and also collecting public comments on the proposed rule being published today rescinding the rule permanently.

List of Subjects in 48 CFR Parts 9, 14, 15, 31, and 52

Government procurement.

Dated: March 29, 2001.

Al Matera,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97–24 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

All Federal Acquisition Regulation (FAR) changes and other directive material contained in FAC 97–24 are effective April 3, 2001.

Dated: March 7, 2001.

Deidre A. Lee,

Director, Defense Procurement.

Dated: February 13, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: February 15, 2001.

Tom Luedtke,

Associate Administrator for Procurement, National Aeronautics and Space Administration.

Accordingly, the final rule published in the **Federal Register** at 65 FR 80255, December 20, 2000, is stayed, and DoD, GSA, and NASA further amend 48 CFR parts 9, 14, 15, 31, and 52 as set forth below:

1. The authority citation for 48 CFR parts 9, 14, 15, 31, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

2. In section 9.103, redesignate paragraph (c) as (d); and add a new paragraph (c) to read as follows:

9.103 Policy.

* * * * *

(c) No purchase or award shall be made unless the contracting officer makes an affirmative determination of responsibility. In the absence of

information clearly indicating that the prospective contractor is responsible, the contracting officer shall make a determination of nonresponsibility. If the prospective contractor is a small business concern, the contracting officer shall comply with subpart 19.6, Certificates of Competency and Determination of Responsibility. (If Section 8(a) of the Small Business Act (15 U.S.C. 637) applies, see subpart 19.8).

* * * * *

3. In section 9.104–1, redesignate paragraphs (e), (f), and (g) as (f), (g), and (h), respectively; and add a new paragraph (e) to read as follows:

9.104–1 General standards.

* * * * *

(e) Have a satisfactory record of integrity and business ethics;

* * * * *

PART 14—SEALED BIDDING

4. In section 14.404–2, redesignate paragraphs (j), (k), and (l) as (k), (l), and (m), respectively; and add a new paragraph (j) to read as follows:

14.404–2 Rejection of individual bids.

* * * * *

(j) Low bids received from concerns determined to be not responsible pursuant to Subpart 9.1 shall be rejected (but if a bidder is a small business concern, see 19.6 with respect to certificates of competency).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

5. In section 15.503, redesignate paragraph (a)(2) as (a)(3) and add a new paragraph (a)(2) to read as follows:

15.503 Notifications to unsuccessful offerors.

(a) * * *

(2) *Preaward notices of exclusion from competitive range.* The contracting officer shall notify offerors promptly in writing when their proposals are excluded from the competitive range or otherwise eliminated from the competition. The notice shall state the basis for the determination and that a proposal revision will not be considered.

* * * * *

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

6. In section 31.205–47, amend paragraph (a) by adding the definition of ''Fraud'' and redesignate paragraphs (b)(3) through (b)(5) as (b)(4) through (b)(6), respectively; and add a new paragraph (b)(3) to read as follows:

31.205–47 Costs related to legal and other proceedings.

(a) * * *

Fraud, as used in this subsection, means—

(1) Acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents,

(2) Acts which constitute a cause for debarment or suspension under 9.406–2(a) and 9.407–2(a) and

(3) Acts which violate the False Claims Act, 31 U.S.C., sections 3729–3731, or the Anti-Kickback Act, 41 U.S.C., sections 51 and 54.

* * * * *

(b) * * *

(3) In a civil or administrative proceeding, either a finding of contractor liability where the proceeding involves an allegation of fraud or similar misconduct or imposition of a monetary penalty where the proceeding does not involve an allegation of fraud or similar misconduct;

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. In section 52.209–5—

a. Revise the provision date (that is stayed as part of this rule); and

b. Add paragraphs (a)(1)(i)(D) and (E) to read as follows:

52.209–5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.

* * * * *

Certification Regarding Debarment, Suspension, Proposed Debarment, And Other Responsibility Matters (Apr 2001)

(a)(1) * * *

(i) * * *

(D) Have [ ] have not [ ], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(E) Are [ ] are not [ ] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

* * * * *

8. In section 52.212–3—

a. Revise the provision date (that is stayed as part of this rule); and

b. Add paragraph (i) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Apr 2001)

* * * * *

(i) *Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549).* The offeror certifies, to the best of its knowledge and belief, that—

(1) The offeror and/or any of its principals [ ] are, [ ] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; and

(2) [ ] Have, [ ] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and [ ] are, [ ] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(End of provision)

* * * * *

[FR Doc. 01–8122 Filed 3–30–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121). It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 97–24 which amends the FAR. Interested parties may obtain further information regarding this rule by referring to FAC 97–24 which precedes this document. This document is also available via the Internet at *http://www.arnet.gov/far*.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact Ralph De Stefano, Procurement Analyst, General Services Administration, at (202) 501–1758.

Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Procedures (FAR Case 1999–010)

The FAR Council has determined that the 30-day effective date did not give Federal contractors and the Federal Government sufficient time to meet the new obligations and responsibilities imposed by the December 20, 2000, final rule. Therefore, the FAR Council has decided to stay the effective date of the final rule. During the stay, the FAR text is restored to the text as it existed before January 19, 2001.

Dated: March 29, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–8123 Filed 3–30–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 14, 15, 31, and 52

[FAR Case 2001–014]

RIN 9000–AJ10

Federal Acquisition Regulation; Contractor Responsibility, Labor Relations Cost, and Costs Relating to Legal and Other Proceedings—Revocation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule with request for comment.

SUMMARY: The Federal Acquisition Regulations Council (FAR Council) published in the **Federal Register** at 65 FR 80255, December 20, 2000, a final rule addressing contractor responsibility and costs incurred in legal and other proceedings. The FAR Council is reconsidering its position and requests public comments on this proposed rule revoking the December 20, 2000, final rule. In an interim FAR rule (under FAR Case 1999–010, Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and other Proceedings, that is being published today) the FAR Council is staying the final rule.

DATES: Interested parties should submit comments in writing on or before June 4, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2001–014@gsa.gov

Please submit comments only and cite FAR case 2001–014 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAR case 2001–014.

SUPPLEMENTARY INFORMATION:

A. Background

1. The Final Rule

The FAR Council published a proposed rule amending FAR Parts 9 and 31 in the **Federal Register** at 64 FR 37360, July 9, 1999. In response to the proposed rule, the Councils received more than 1500 letters. After reviewing the public comments, the FAR Council decided to republish the proposed rule with certain changes.

The FAR Council published a revised proposed rule amending FAR parts 9, 14, 15, 31, and 52 in the **Federal Register** at 65 FR 40830, June 30, 2000. Over 300 public comments were received.

The final rule, which was published in the **Federal Register** at 65 FR 80255 on December 20, 2000, had an effective date of January 19, 2001, 30 days from date of publication.

The final rule included the following revisions:

FAR Part 9

Added language stating that a satisfactory record of integrity and business ethics includes satisfactory compliance with the law including tax, labor and employment, environmental, antitrust, and consumer protection laws (FAR 9.104–1(d)).

Required contracting officers to consider all relevant credible information but stated that the greatest weight must be given to offenses adjudicated within the past three years.

FAR Part 14 and 15

Directed contracting officers to notify offerors if the offerors were excluded based on a nonresponsibility determination.

FAR Part 31

At FAR 31.205–21, made unallowable those costs incurred for activities that assist, promote, or deter unionization.

At FAR 31.305–47, made unallowable those costs incurred in civil or administrative proceedings brought by a government where the contractor violated, or failed to comply with a law or regulation.

FAR Part 52

At FAR 52.209–5, amended the previous certification to require offerors to certify to additional violations (violations of tax, labor and employment, environmental, antitrust, or consumer protection laws) adjudicated within the last three years. It was a check-the-box certification. An offeror would have to provide additional detailed information only upon the request of the contracting officer.

At 52.212–3(h), made an equivalent change for the certification for commercial items.

2. The Stay

In the interim rule published today, under FAR case 1999–010, the FAR Council is staying the final rule. The FAR Council determined that the 30-day effective date did not give contractors, and the Government, sufficient time to meet the new obligations and responsibilities imposed by the final rule.

The FAR Council intends the stay will last for 270 days from April 3, 2001 or until finalization of this proposed rule, whichever, is sooner.

3. Reconsideration

The FAR Council is reconsidering its position and requests public comments on this proposed rule that revokes the December 20, 2000, final rule.

The FAR Council realizes that there was strong controversy about the merits of the two proposed rules (there were 1800 comments). The typical FAR rule generates about one percent of that amount. The two proposed rules were the most controversial ever published by the FAR Council. Adverse comments were made by individuals within the Government itself, as well as by the public.

After the publication of the final rule, the FAR Council has continued to receive information that the rule is not in the best interests of industry or the Government, the way it was written. The FAR Council wants to be responsive to the needs of the contracting community, and is therefore continuing a dialog about the rule.

The FAR Council is reassessing the advantages and disadvantages of the changes made by the December 20, 2000, final rule, to determine if the benefits of the rule are outweighed by the burdens imposed by the rule. In this regard, it is not clear to the FAR Council that there is a justification for including the added categories of covered laws in the rule and its implementing certification, that the rule provides contracting officers with sufficient guidelines to prevent arbitrary or otherwise abusive implementation, or that the final rule is justified from a cost benefit perspective.

The rule has only been in effect since January 19, 2001. There has not been time for the public to be in a position of reliance upon the rule's existence.

The requirement that contractors must be responsible is statutory. Offerors must have a satisfactory record of

integrity and business ethics. Contracting officers will continue to have the authority and duty to make responsibility decisions. Agency debarring officials will continue to have the authority and duty to make determinations whether to suspend and debar a contractor.

The final rule was one way the Government could assure itself that its contractors will have integrity. There are other ways to arrive at the assurance. For example, the agencies responsible for enforcement of the specific laws cited in the final rule may cite a pattern of violation as cause for debarring or suspending the violator.

The FAR Council is inviting comments on two rules. On this proposed rule, FAR case 2001–014, comments are invited on the revocation of the December final rule. On the interim rule, FAR case 1999–010 (also published today), comments are requested on the length of the stay.

This is a significant rule and was subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The FAR Council does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule will eliminate FAR revisions implemented under FAR Case 1999–010 published in the **Federal Register** on December 20, 2000, (65 FR 80255), that did not have a significant economic impact on a substantial number of small entities. Therefore, an Initial Regulatory Flexibility Analysis is not required. We invite comments from small businesses and other interested parties. We will consider comments from small entities concerning the affected FAR parts in accordance with 5 U.S.C. 610. Small entities must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2001–014).

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the FAR changes to Parts 9 and 52 decrease the information collection requirements that the Office of Management and Budget (OMB) approved under OMB Control Number 9000–0094.

The FAR Council estimates that the annual reporting burden for OMB Control Number 9000–0094 applies to only 89,995 respondents, of which approximately 50,000 would be affected by the modified certification requirement. The 39,995 subcontractors that respond to inquiries from the prime contractor regarding debarment, suspension, or proposed debarment are not affected by the modified certification requirements. The total estimated responses of 500,000 per year is not affected by the modified certification requirements.

The FAR Council estimates that the modified certification requirement would reduce the total burden by 505,000 hours, changing the total from 596,667 to 91,667. This is based on an estimate of 50,000 respondents and 500,000 responses per year. The FAR Council estimates that the modified certification would take an average of 1 hour less for each of the 50,000 initial responses and .3 hours less for each of the 450,000 subsequent responses that year, for a total of 185,000 hours less to respond to the modified certification requirements. The FAR Council further estimates that in many acquisitions, the contracting officer only would have requested additional information if the otherwise apparently successful offeror had certified affirmatively. However, the FAR Council estimates, in some source selections, the contracting officer would have requested such information from all offerors in the competitive range that certified affirmatively. Therefore, we estimate a reduced burden of 140,000 hours for providing additional information. This is based on a burden estimate of 4 hours per initial response and 1 hour per subsequent response, for a total of 140,000 hours for providing additional information. The FAR Council further estimates an additional reduction of 180,000 annual recordkeeping hours based on an estimated average of 6 hours per year for recordkeeping for each of the 30,000 respondents to respond to the request for additional information.

The revised annual reporting burden is estimated as follows:

Respondents: 89,995.
Responses per respondent: 12.22.
Total annual responses: 1,100,000.
Average hours per response: .083.*
Total burden hours: 91,667 hours.

* Average hours per response is calculated by dividing total burden hours by total annual responses.

The Paperwork Reduction Act does not apply to FAR Part 31 cost principles changes because the changes do not impose information collection requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

D. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than June 4, 2001 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW., Room 4035, Washington, DC 20405.

Public comments are particularly invited on whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

List of Subjects in 48 CFR Parts 9, 14, 15, 31, and 52

Government procurement.

Dated: March 29, 2001.

Al Matera.

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 9, 14, 15, 31, and 52 as stayed effective April 3, 2001 be further amended as set forth below:

1. The authority citation for 48 CFR parts 9, 14, 15, 31, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

9.103 [Amended]

2. Amend section 9.103 in paragraph (b) by removing the third sentence; and removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

3. In section 9.104–1, revise paragraph (d); remove paragraph (e); and redesignate paragraphs (f), (g), and (h) as (e), (f), and (g) to read as follows:

9.104–1 General standards.

* * * * *

(d) Have a satisfactory record of integrity and business ethics;

* * * * *

9.104–3 [Amended]

4. In section 9.104–3, remove paragraph (c); and redesignate paragraphs (d) and (e) as (c) and (d) respectively.

PART 14—SEALED BIDDING

5. Revise section 14.404–2(i); remove paragraph (j); and redesignate paragraphs (k), (l), and (m) as (j), (k), and (l), respectively, to read as follows:

14.404–2 Rejection of individual bids.

* * * * *

(i) Low bids received from concerns determined to be not responsible pursuant to subpart 9.1 shall be rejected (but if a bidder is a small business concern, see 19.6 with respect to certificates of competency).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

6. Revise section 15.503(a)(1); remove paragraph (a)(2); and redesignate paragraph (a)(3) as (a)(2) to read as follows:

15.503 Notification to unsuccessful offerors.

(a) *Preaward notices*—(1) *Preaward notices of exclusion from competitive range.* The contracting officer shall notify offerors promptly in writing when their proposals are excluded from the competitive range or otherwise eliminated from the competition. The notice shall state the basis for the determination and that a proposal revision will not be considered.

* * * * *

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURE

31.205–21 [Amended]

7. Amend section 31.205–21 by removing the paragraph designation ''(a)'', and by removing paragraph (b) in its entirety.

8. Amend section 31.205–47 in paragraph (a) by adding, in alphabetical order, the definition ''Fraud'' (which was removed in the December 20, 2000, final rule (65 FR 80255) and stayed effective April 3, 2001; and by removing paragraph (b)(3) and redesignating paragraphs (b)(4) through (b)(6) as (b)(3) through (b)(5), respectively; and revising paragraph (b)(2); to read as follows:

31.205–47 Costs related to legal and other proceedings.

(a) *Definitions.*

* * * * *

Fraud, as used in this subsection, means—

(1) Acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents,

(2) Acts which constitute a cause for debarment or suspension under 9.406–2(a) and 9.407–2(a) and

(3) Acts which violate the False Claims Act, 31 U.S.C., sections 3729–3731, or the Anti-Kickback Act, 41 U.S.C., sections 51 and 54.

(b) * * *

(2) In a civil or administrative proceeding, either a finding of contractor liability where the proceeding involves an allegation of fraud or similar misconduct or imposition of a monetary penalty where the proceeding does not involve an allegation of fraud or similar misconduct;

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.209–5 [Amended]

9. In section 52.209–5—

a. Revise the date of the provision to read ''(Mar 1996)'';

(b) In paragraph (a)(1)(i)(B), remove ''the three-year'' and add ''a three-year'' in its place; and add ''and'' at the end of the paragraph;

c. In paragraph (a)(1)(i)(C), at the end of the paragraph, remove ''; and'' and add a period in its place; and

d. Remove paragraphs (a)(1)(i)(D) and (E); remove paragraph (a)(1)(ii), and redesignate paragraph (a)(1)(iii) as (a)(1)(ii).

10. In section 52.212–3—

a. Revise the date of the provision;

b. Revise paragraph (h); and

c. Remove paragraph (i). The revised text reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Oct. 2000)

* * * * *

(h) *Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549).* The offeror certifies, to the best of its knowledge and belief, that—

(1) The offeror and/or any of its principals [ ] are, [ ] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; and

(2) [ ] Have, [ ] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offerors; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and [ ] are, [ ] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(End of provision)

* * * * *

[FR Doc. 01–8124 Filed 3–30–01; 8:45 am]

BILLING CODE 6820–EP–M

Federal Register

Tuesday,
April 3, 2001

Part III

Department of Labor

Office of the Secretary

Delegation of Authorities and Assignment of Responsibilities to the Assistant Secretary for Employment Standards and Other Officials in the Employment Standards Administration; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 3–2001]

Delegation of Authorities and Assignment of Responsibilities to the Assistant Secretary for Employment Standards and Other Officials in the Employment Standards Administration

March 26, 2001.

1. *Purpose.* To delegate authorities and assign responsibilities to the Assistant Secretary for Employment Standards and other officials in the Employment Standards Administration.

2. *Directives Affected.* This Order repeals and supersedes Secretary's Order 5–96 (Employment Standards).

3. *Background.* This Order, which repeals and supersedes Secretary's Order 5–96, constitutes the generic Secretary's Order for the Employment Standards Administration (ESA). Specifically, this Order delegates and assigns responsibility to ESA for the implementation, administration, and enforcement, to the extent permitted by law, of responsibilities under Executive Order 13201, ''Notification of Employee Rights Concerning Payment of Union Dues or Fees'' (February 17, 2001), to promote economy and efficiency in Government procurement, and to better inform workers of their rights. Section 4(a)(29) of this Order contains this delegation of authority and assignment of responsibility.

a. *Delegation to the Assistant Secretary for Employment Standards, authority under Section 1(b) of Executive Order 13201, (EO 13201) ''the Notification of Employee Rights Concerning Payment of Union Dues or Fees'' (February 17, 2001).* Responsibility for the administration and enforcement of EO 13201 is assigned to the Secretary, who is directed to adopt ''rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of this order.'' Among other things, EO 13201 requires non-exempt Federal contractors to post workplace notices advising employees of certain rights. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. Employees who are not union members, however, can object to the use of their payments for certain purposes and can only be required to pay their share of union costs for activities relating to collective bargaining, contract administration, and grievance adjustment. By this Order, the Secretary delegates authority and assigns responsibility for carrying out this Executive Order to the Assistant Secretary for Employment Standards.

b. *Continuation of prior delegations and assignments to the Assistant Secretary for Employment Standards.* All other authorities and responsibilities set forth in this Order were delegated or assigned previously to the Assistant Secretary for Employment Standards and other officials in ESA in Secretary's Order 5–96, and this Order continues those delegations and assignments in full force and effect, except as expressly modified herein.

4. *Delegation of Authority and Assignment of Responsibility.* a. The Assistant Secretary for Employment Standards is hereby delegated authority and assigned responsibility, except as hereinafter provided, for carrying out the employment standards, labor standards, and labor-management standards policies, programs, and activities of the Department of Labor, including those functions to be performed by the Secretary of Labor under the designated provisions of the following statutes:

(1) The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201 *et seq.* (FLSA), including the issuance thereunder of child labor hazardous occupation orders and other regulations concerning child labor standards, and subpoena authority under 29 U.S.C. 209. Authority and responsibility for the Equal Pay Act, Section 6(d) of the FLSA, were transferred to the Equal Employment Opportunity Commission on July 1, 1979, pursuant to the President's Reorganization Plan No. 1 of February 1978, set out in the Appendix to Title 5, Government Organization and Employees.

(2) The Walsh-Healey Public Contracts Act of 1936, as amended, 41 U.S.C. 35 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health or the Assistant Secretary for Mine Safety and Health. The authority of the Assistant Secretary for Employment Standards includes subpoena authority under 41 U.S.C. 39.

(3) The McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 351 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health. The authority of the Assistant Secretary for Employment Standards includes subpoena authority under 41 U.S.C. 353(a).

(4) The Davis-Bacon Act, as amended, 40 U.S.C. 276a *et seq.*, and any laws now existing or subsequently enacted, providing for prevailing wage findings by the Secretary in accordance with or pursuant to the Davis-Bacon Act; the Copeland Act, 40 U.S.C. 276c; Reorganization Plan No. 14 of 1950; and the Tennessee Valley Authority Act, 16 U.S.C. 831.

(5) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(6) Title III of the Consumer Credit Protection Act, 15 U.S.C. 1671 *et seq.*

(7) The labor standards provisions contained in Sections 5(i) and 7(g) of the National Foundation for the Arts and the Humanities Act, 20 U.S.C. 954(i) and 956(g), except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(8) The Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1801 *et seq.*, including subpoena authority under 29 U.S.C. 1862(b).

(9) The Employee Polygraph Protection Act of 1988, 29 U.S.C. 2001 *et seq.*, including subpoena authority under 29 U.S.C. 2004(b).

(10) The Federal Employees' Compensation Act, as amended and extended, 5 U.S.C. 8101 *et seq.*, except 5 U.S.C. 8149, as it pertains to the Employees' Compensation Appeals Board.

(11) The Longshore and Harbor Workers' Compensation Act, as amended and extended, 33 U.S.C. 901 *et seq.*, except: 33 U.S.C. 919(d), with respect to administrative law judges in the Office of Administrative Law Judges; 33 U.S.C. 921(b), as it applies to the Benefits Review Board; and activities pursuant to 33 U.S.C. 941, assigned to the Assistant Secretary for Occupational Safety and Health.

(12) The Black Lung Benefits Act, as amended, 30 U.S.C. 901 *et seq.*

(13) The affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, except for monitoring of the Federal contractor job listing activities under 38 U.S.C. 4212(a) and the annual Federal contractor reporting obligations under 38 U.S.C. 4212(d), delegated to the Assistant Secretary for Veterans' Employment and Training.

(14) Sections 501(a), 501(f), 502, and 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791(a), 791(f), 792, and 793; and Executive Order 11758 (''Delegating Authority of the President

Under the Rehabilitation Act of 1973'') of January 15, 1974.

(15) Executive Order 11246 ''Equal Employment Opportunity'' (September 24, 1965), as amended by Executive Order 11375 of October 13, 1967; and Executive Order 12086 (''Consolidation of Contract Compliance Functions for Equal Employment Opportunity'') of October 5, 1978.

(16) The following provisions of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 *et seq.* (INA): Section 218(g)(2), 8 U.S.C. 1188(g)(2), relating to assuring employer compliance with terms and conditions of employment under the temporary alien agricultural labor certification (H–2A) program; and Section 274A(b)(3), 8 U.S.C. 1324A(b)(3), relating to employment eligibility verification and related recordkeeping.

(17) Section 212(m)(2)(E)(ii) through (v) of the INA, 8 U.S.C. 1182(m)(2)(E)(ii) through (v), relating to the complaint, investigation, and penalty provisions of the attestation process for users of nonimmigrant registered nurses (*i.e.,* H–1C Visas).

(18) The enforcement of the attestations required by employers under the INA pertaining to the employment of nonimmigrant longshore workers, Section 258 of the INA, 8 U.S.C. 1288(c)(4)(B)–(F); and foreign students working off-campus, 8 U.S.C. 1184 note; and enforcement of labor condition applications for employment of nonimmigrant professionals, Section 212(n)(2) of the INA, 8 U.S.C. 1182(n)(2).

(19) Joint responsibility and authority with the Assistant Secretary for Employment and Training for enforcing the Equal Employment Opportunity in Apprenticeship and Training requirements, as identified in Secretary's Order 4–90.

(20) Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.,* and the regulations at 41 CFR part 60–742.

(21) The Family and Medical Leave Act of 1993, 29 U.S.C. 2601 *et seq.,* including subpoena authority under 29 U.S.C. 2616.

(22) The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.,* to conduct inspections and investigations, issue administrative subpoenas, issue citations, assess and collect penalties, and enforce any other remedies available under the statute, and to develop and issue compliance interpretations under the statute, with regard to the standards on:

(a) field sanitation, 29 CFR 1928.110; and

(b) temporary labor camps, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in ''agricultural employment'' within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that the Assistant Secretary for Occupational Safety and Health retains enforcement responsibility over temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

The authority of the Assistant Secretary for Employment Standards under the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps does not include any other agency authorities or responsibilities, such as rulemaking authority. Such authorities under the statute are retained by the Assistant Secretary for Occupational Safety and Health.

Moreover, nothing in this Order shall be construed as derogating from the right of States operating OSHA-approved State plans under 29 U.S.C. 667 to continue to enforce field sanitation and temporary labor camp standards if they so choose. The Assistant Secretary for Occupational Safety and Health retains the authority to monitor the activity of such States with respect to field sanitation and temporary labor camps.

(23) The Labor-Management Reporting and Disclosure Act of 1959, as amended, 29 U.S.C. 401 *et seq.*

(24) Section 701 (Standards of Conduct for Labor Organizations) of the Civil Service Reform Act of 1978, 5 U.S.C. 7120; Section 1017 of the Foreign Service Act of 1980, 22 U.S.C. 4117; Section 220(a)(1) of the Congressional Accountability Act of 1995, 2 U.S.C. 1351(a)(1); and the regulations pertaining to such sections at 29 CFR parts 457–3459.

(25) Section 1209 of the Postal Reorganization Act of 1970, 39 U.S.C. 1209.

(26) The employee protection provisions of the Federal Transit law, as codified at 49 U.S.C. 5333(b), and related provisions.

(27) The employee protection provisions certified under Section 405(a), (b), (c), and (e) of the Rail Passenger Service Act of 1970, 45 U.S.C. 565(a), (b), (c), and (e).

(28) Executive Order 13201 (''the Notification of Employee Rights Concerning Payment of Union Dues or Fees'') of February 17, 2001.

(29) Such additional Federal acts that from time to time may assign to the Secretary or the Department duties and responsibilities similar to those listed under subparagraphs (1)–(28) of this paragraph, as directed by the Secretary.

b. *The Wage and Hour Administrator of the Employment Standards Administration* is hereby delegated authority and assigned responsibility to:

(1) Issue administrative subpoenas under Section 9 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 209; Section 5 of the Walsh-Healey Public Contracts Act, 41 U.S.C. 39; Section 4(a) of the McNamara-O'Hara Service Contract Act, 41 U.S.C. 353(a); Section 512(b) of the Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1862(b); Section 5(b) of the Employee Polygraph Protection Act of 1988, 29 U.S.C. 2004(b); Section 106 of the Family and Medical Leave Act of 1993, 29 U.S.C. 2616; and Section 8(b) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(b), with respect to the authority delegated by this Order.

(2) Invoke all appropriate claims of privilege, arising from the functions of the Wage and Hour Division, following his/her personal consideration of the matter and in accordance with the following guidelines:

(a) *Informant's Privilege* (to protect from disclosure the identity of any person who has provided information to the Wage and Hour Division in cases arising under the statutory provisions listed in subparagraph 4.a. of this Order that are delegated or assigned to the Wage and Hour Division): A claim of privilege may be asserted where the Wage and Hour Administrator has determined that disclosure of the privileged matter may: interfere with the Wage and Hour Division's enforcement of a particular statute for which that Division exercises investigative or enforcement authority; adversely affect persons who have provided information to the Wage and Hour Division; or deter other persons from reporting violations of the statute.

(b) *Deliberative Process Privilege* (to withhold information which may disclose predecisional intra-agency or inter-agency deliberations, including: the analysis and evaluation of facts; written summaries of factual evidence; and recommendations, opinions, or advice on legal or policy matters; in cases arising under the statutory provisions listed in subparagraph 4.a. of this Order that are delegated or assigned

to the Wage and Hour Division): A claim of privilege may be asserted where the Wage-Hour Administrator has determined that disclosure of the privileged matter would have an inhibiting effect on the agency's decision-making processes.

(c) *Privilege for Investigative Files* compiled for law enforcement purposes (to withhold information which may reveal the Wage and Hour Division's confidential investigative techniques and procedures): The investigative files privilege may be asserted where the Wage and Hour Administrator has determined that disclosure of the privileged matter may have an adverse impact upon the Wage and Hour Division's enforcement of the statutory provisions that have been delegated or assigned to the Division in subparagraph 4.a. of this Order, by: disclosing investigative techniques and methodologies; deterring persons from providing information to the Wage and Hour Division; prematurely revealing the facts of the Wage and Hour Division's case; or disclosing the identities of persons who have provided information under an express or implied promise of confidentiality.

(d) Prior to filing a formal claim of privilege, the Wage and Hour Administrator shall personally review: all the documents sought to be withheld (or, in cases where the volume is so large all of the documents cannot be personally reviewed in a reasonable time, an adequate and representative sample of such documents); and a description or summary of the litigation in which the disclosure is sought.

(e) In asserting a claim of governmental privilege, the Wage and Hour Administrator may ask the Solicitor of Labor or the Solicitor's representative to file any necessary legal papers or documents.

c. *The Wage and Hour Regional Administrators of the Employment Standards Administration* are hereby delegated authority and assigned responsibility to issue administrative subpoenas under Section 9 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 209; Section 5 of the Walsh-Healey Public Contracts Act, 41 U.S.C. 39; Section 4(a) of the McNamara-O'Hara Service Contract Act, 41 U.S.C. 353(a); Section 512(b) of the Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1862(b); Section 5(b) of the Employee Polygraph Protection Act of 1988, 29 U.S.C. 2004(b); Section 106 of the Family and Medical Leave Act of 1993, 29 U.S.C. 2616; and Section 8(b) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(b), with respect to the authority delegated by this Order.

d. *The Deputy Assistant Secretary for Federal Contract Compliance of the Employment Standards Administration* is hereby delegated authority and assigned responsibility to invoke all appropriate claims of privilege, arising from the functions of the Office of Federal Contract Compliance Programs (OFCCP), following his/her personal consideration of the matter and in accordance with the following guidelines:

(1) *Informant's Privilege* (to protect from disclosure the identity of any person who has provided information to OFCCP in cases arising under an authority delegated or assigned to OFCCP in subparagraph 4.a. of this Order): A claim of privilege may be asserted where the Deputy Assistant Secretary for Federal Contract Compliance has determined that disclosure of the privileged matter may: interfere with an investigative or enforcement action taken by OFCCP under an authority delegated or assigned to OFCCP in subparagraph 4.a. of this Order; adversely affect persons who have provided information to OFCCP; or deter other persons from reporting violations of the statute or other authority.

(2) *Deliberative Process Privilege* (to withhold information which may disclose predecisional intra-agency or inter-agency deliberations, including: the analysis and evaluation of facts; written summaries of factual evidence; and recommendations, opinions or advice on legal or policy matters; in cases arising under an authority delegated or assigned to OFCCP in subparagraph 4.a. of this Order): A claim of privilege may be asserted where the Deputy Assistant Secretary for Federal Contract Compliance has determined that disclosure of the privileged matter would have an inhibiting effect on the agency's decision-making processes.

(3) *Privilege for Investigative Files* compiled for law enforcement purposes (to withhold information which may reveal OFCCP's confidential investigative techniques and procedures): The investigative files privilege may be asserted where the Deputy Assistant Secretary for Federal Contract Compliance has determined that disclosure of the privileged matter may have an adverse impact upon OFCCP's enforcement of an authority delegated or assigned to OFCCP in subparagraph 4.a. of this Order, by: disclosing investigative techniques and methodologies; deterring persons from providing information to OFCCP; prematurely revealing the facts of OFCCP's case; or disclosing the identities of persons who have provided information under an express or implied promise of confidentiality.

(4) Prior to filing a formal claim of privilege, the Director shall personally review: all the documents sought to be withheld (or, in cases where the volume is so large that all of the documents cannot be personally reviewed in a reasonable time, an adequate and representative sample of such documents); and a description or summary of the litigation in which the disclosure is sought.

(5) In asserting a claim of governmental privilege, the Deputy Assistant Secretary for Federal Contract Compliance may ask the Solicitor or the Solicitor's representative to file any necessary legal papers or documents.

e. *The Assistant Secretary for Employment Standards and the Assistant Secretary for Occupational Safety and Health* are directed to confer regularly on enforcement of the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps (see subparagraph 4.a.(22) of this Order), and to enter into any memoranda of understanding which may be appropriate to clarify questions of coverage which arise in the course of such enforcement.

f. *The Chief Financial Officer* is assigned responsibility, in accordance with applicable appropriations enactments, for assuring that resources associated with the programs and functions of the Occupational Safety and Health Administration and the Office of Labor-Management Standards are reallocated and transferred to ESA, as appropriate, in an orderly and equitable manner.

g. *The Assistant Secretary for Administration and Management* is assigned responsibility to assure that any transfer of resources effecting this Order is fully consistent with the budget policies of the Department and that consultation and negotiation, as appropriate, with representatives of any employees affected by this exchange of responsibilities is conducted. The Assistant Secretary for Administration and Management is also responsible for providing or assuring that appropriate administrative and management support is furnished, as required, for the efficient and effective operation of these programs.

h. *The Solicitor of Labor* shall have the responsibility for providing legal advice and assistance to all officers of the Department relating to the administration of the statutory

provisions, regulations, and Executive Orders listed above. The bringing of legal proceedings under those authorities, the representation of the Secretary and/or other officials of the Department of Labor, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor.

5. *Reservation of Authority and Responsibility.* a. The submission of reports and recommendations to the President and the Congress concerning the administration of the statutory provisions and Executive Orders listed above is reserved to the Secretary.

b. Nothing in this Order shall limit or modify the delegation of authority and assignment of responsibility to the Administrative Review Board by Secretary's Order 2–96 (April 17, 1996).

c. Except as expressly provided, nothing in this Order shall limit or modify the provisions of any other Order, including Secretary's Order 2–90 (Office of Inspector General).

6. *Redelegation of Authority.* The Assistant Secretary for Employment Standards, the Chief Financial Officer, the Assistant Secretary for Administration and Management, and the Solicitor of Labor may redelegate authority delegated in this Order.

7. *Effective Date.* This order is effective immediately.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 01–8144 Filed 4–2–01; 8:45 am]

BILLING CODE 4510–23–P

Federal Register

Tuesday,
April 3, 2001

Part IV

Environmental Protection Agency

Forty-Seventh Report of the TSCA Interagency Testing Committee to the Administrator, Receipt of Report and Request for Comments; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–41055; FRL–6763–6]

Forty-Seventh Report of the TSCA Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC) transmitted its 47th ITC Report to the Administrator of the EPA on November 30, 2000. In the 47th ITC Report, which is included in this notice, the ITC adds 37 indium chemicals and 4 other chemicals discussed in the 46th ITC Report as recommended chemicals to its *Priority Testing List*. The ITC requests TSCA section 8(a) Preliminary Assessment Information Reporting (PAIR) rules for the appropriate CAS numbered chemicals and TSCA section 8(d) Health and Safety Data reporting rules be promulgated by the EPA for these chemicals and the 8 nonylphenol polyethoxylate degradation products placed on the *Priority Testing List* in the 46th ITC Report. The ITC is also placing three chloroalkenes as recommended chemicals on the ITC's *Priority Testing List* in order to solicit information on use, exposure, ecological effects, environmental fate, and health effects under the ITC's Voluntary Information Submission Policy (VISP). This action is part of the ITC's ongoing efforts to screen chemicals with potential to persist and bioconcentrate.

DATES: Comments, identified by docket control number OPPTS–41055, must be received on or before May 3, 2001.

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–41055 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara 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.

For technical information contact: John D. Walker, ITC Executive Director (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–1825; fax: (202) 260–7895; e-mail address: walker.johnd@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This notice is directed to the public in general. It may, however, be of particular interest to you if you manufacture (defined by statute to include import) and/or process TSCA-covered chemicals and you may be identified by the North American Industrial Classification System (NAICS) codes 325 and 32411. Because this notice is directed to the general public and other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in 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**.

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

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

You may also access additional information about the ITC and the TSCA testing program through the web site for the Office of Pollution Prevention and Toxics (OPPT) at http://www.epa.gov/opptintr/, or go directly to the ITC Home Page at http://www.epa.gov/opptintr/itc/.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–41055. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the 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 for 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–41055 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 above. 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–41055. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views and comments on the 47th ITC Report. 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. Provide specific examples to illustrate your concerns.
5. Make sure to submit your comments by the deadline in this notice.
6. 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. Background

The Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.*) authorizes the Administrator of the EPA to promulgate regulations under TSCA section 4(a) requiring testing of chemicals and chemical groups in order to develop data relevant to determining the risks that such chemicals and chemical groups may present to health or the environment. Section 4(e) of TSCA established the ITC to recommend chemicals and chemical groups to the Administrator of the EPA for priority testing consideration. Section 4(e) of TSCA directs the ITC to revise the TSCA section 4(e) *Priority Testing List* at least every 6 months.

1. *The 47th ITC Report*. The 47th ITC Report was received by the EPA Administrator on November 30, 2000, and is included in this notice. In the 47th ITC Report, the ITC:

i. Adds 37 indium chemicals (see Table 2 of the 47th ITC Report) and 4 other chemicals discussed in the 46th ITC Report as recommended chemicals to its *Priority Testing List*. The ITC requests TSCA section 8(a) PAIR rules for the appropriate CAS numbered chemicals and TSCA section 8(d) Health and Safety Data reporting rules be promulgated by the EPA for these chemicals and the 8 nonylphenol polyethoxylate degradation products placed on the *Priority Testing List* in the 46th ITC Report. The chemicals, for which needed information was not provided in response to the VISP published in the 46th ITC Report, are: Pentachlorothiophenol (CAS No. 133–49–3, from the class ''polychlorobenzenethiols''); tetrachloropyrocatechol (CAS No. 1198–55–6, from the class ''polychlorophenols''); *p*-toluidine, 5-chloro-.alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl- (CAS No. 1806–24–2, from the class ''chlorotrifluoromethylphenoxy benzenes'') benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-2-ethoxy-1-methyl-2-oxo- (CAS No. 88185–22–2, from the class ''chlorotrifluoromethylphenoxy benzenes''). In addition, no information was provided on the following eight nonylphenol polyethoxylate degradation products: 4-nonylphenol ethoxylate (CAS No. 104–35–8); 4-nonylphenol diethoxylate (CAS No. 20427–84–3); 4-nonylphenoxy acetic acid (CAS No. 3115–49–9); 4-nonylphenoxy ethoxy acetic acid (CAS No. 106807–78–7); 4-nonylphenoxy diethoxy acetic acid (CAS No. 108241–00–5); 4-nonylphenoxy triethoxy acetic acid; 4-nonylphenol triethoxylate; and 4-nonylphenol tetraethoxylate.

ii. Places three chloroalkenes [1,3-butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)- (CAS No. 68334–67–8); 3-butenoic acid, 2,2,3,4,4-pentachloro-, butyl ester (CAS No. 75147–20–5); and 2,2,3,4,4-pentachloro-3-butenoic acid (CAS No. 85743–61–9)] as recommended chemicals on the *Priority Testing List* in order to solicit information on use, exposure, ecological effects, environmental fate, and health effects under the ITC's VISP. This action is part of the ITC's ongoing efforts to screen chemicals with potential to persist and bioconcentrate.

2. *Status of the Priority Testing List*. The current TSCA section 4(e) *Priority Testing List* as of November 2000 can be found in Table 1 of the 47th ITC Report which is included in this notice.

List of Subjects

Environmental protection, Chemicals, Hazardous substances.

Dated: March 23, 2001.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Seventh Report of the TSCA Interagency Testing Committee to the Administrator, U.S. Environmental Protection Agency

Table of Contents

Summary
The TSCA Section 4(e) *Priority Testing List* (November 2000)
I. Background
II. TSCA Section 8 Reporting
A. TSCA section 8 rules
B. ITC's use of TSCA section 8 and ''other information''
C. Promoting more efficient use of information submission resources
D. Requests related to promulgation of TSCA section 8(a) PAIR and section 8(d) HaSD reporting rules
III. ITC's Activities During this Reporting Period (May to October 2000): Information Solicitations
IV. Revisions to the TSCA Section 4(e) *Priority Testing List*: Chemicals added to the *Priority Testing List*:
A. Indium Chemicals
B. Chloroalkenes
C. Polychlorophenols and Polychlorobenzenethiols
D. Chlorotrifluoromethylphenoxy Benzenes
V. References
VI. The TSCA Interagency Testing Committee

Summary

This is the 47th Report of the Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC) to the Administrator of the U.S. Environmental Protection Agency (EPA). In this Report, the ITC is adding 37 indium chemicals and four other chemicals discussed in the 46th Report which was published in the **Federal Register** of December 1, 2000 (65 FR 75552) (FRL–6594–7) to its *Priority Testing List* so that TSCA section 8(a) Preliminary Assessment Information Reporting (PAIR) and TSCA section 8(d) Health and Safety Data (HaSD) reporting rules will be promulgated by the EPA. There is reason to believe the indium chemicals have potential to cause cancer in humans. The four chemicals discussed in the 46th Report that are being added to the *Priority Testing List* are, pentachlorothiophenol and tetrachloropyrocatechol (from the class polychlorophenols and polychlorobenzenethiols), and *p*-toluidine, 5-chloro-.alpha.,.alpha.,.alpha.- trifluoro-2-nitro-*N*-phenyl and benzoic acid, 3-[2-chloro-4-(trifluoromethyl) phenoxy]-, 2-ethoxy-1-methyl-2-oxo (from the class chlorotrifluoromethylphenoxy benzenes). The four chemicals are being

added to the *Priority Testing List*, because information solicited in the ITC's 46th Report under the Voluntary Information Submissions Policy (VISP) was not provided to the ITC. The ITC is also asking EPA to promulgate TSCA section 8(a) PAIR and TSCA section 8(d) HaSD reporting rules for the 8 nonylphenol polyethoxylate degradation products that were added to the *Priority Testing List* in the ITC's 46th Report, because information requested for these chemicals was not voluntarily provided to the ITC. The ITC is placing three chloroalkenes on the *Priority Testing List* in order to solicit information on use, exposure, ecological effects, environmental fate, and health effects under VISP. This action is part of the ongoing effort to screen chemicals with potential to persist and bioconcentrate. The revised TSCA section 4(e) *Priority Testing List* follows as Table 1 of this unit.

TABLE 1.—THE TSCA SECTION 4(E) PRIORITY TESTING LIST (NOVEMBER 2000)

Report	Date	Chemical/Group	Action
28	May 1991	Chemicals with low confidence reference dose (RfD) Acetone Thiophenol	Designated
30	May 1992	5 Siloxanes	Recommended
31	January 1993	13 Chemicals with insufficient dermal absorption rate data	Designated
32	May 1993	16 Chemicals with insufficient dermal absorption rate data	Designated
35	November 1994	4 Chemicals with insufficient dermal absorption rate data	Designated
37	November 1995	10 Alkylphenols and 2 alkylphenol polyethoxylates	Recommended
39	November 1996	8 Nonylphenol ethoxylates	Recommended
41	November 1997	18 Alkylphenols, 5 polyalkylphenols and 6 alkylphenol polyethoxylates.	Recommended
42	May 1998	3-Amino-5-mercapto-1,2,4-triazole	Recommended
42	May 1998	Glycoluril	Recommended
42	May 1998	Methylal	Recommended
42	May 1998	Ethyl Silicate	Recommended
46	May 2000	8 Nonylphenol polyethoxylate degradation products	Recommended
47	November 2000	37 Indium chemicals	Recommended
47	November 2000	Pentachlorothiophenol	Recommended
47	November 2000	Tetrachloropyrocatechol	Recommended
47	November 2000	*p*-Toluidine, 5-chloro-.alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl.	Recommended
47	November 2000	Benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, 2-ethoxy-1-methyl-2-oxo.	Recommended
47	November 2000	3 Chloroalkenes	Recommended

I. Background

The ITC was established by section 4(e) of TSCA ''to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule for testing under section 4(a).... At least every six months..., the Committee shall make such revisions to the *Priority Testing List* as it determines to be necessary and transmit them to the Administrator together with the Committee's reasons for the revisions'' (Public Law 94–469, 90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*). Since its creation in 1976, the ITC has submitted 46 semi-annual (May and November) Reports to the EPA Administrator transmitting the *Priority Testing List* and its revisions. ITC Reports are available from the ITC's web site (http://www.epa.gov/opptintr/itc) within a few days of submission to the Administrator and from http://www.epa.gov/fedrgstr after publication in the **Federal Register**. The ITC meets monthly and produces its revisions to the *Priority Testing List* with administrative and technical support from the ITC staff, ITC members and their U.S. Government organizations, and contract support provided by EPA. ITC members and staff are listed at the end of this Report.

II. TSCA Section 8 Reporting

A. *TSCA section 8 rules*. Following receipt of the ITC's Report (and the revised *Priority Testing List*) by the EPA Administrator, the EPA's Office of Pollution Prevention and Toxics (OPPT) promulgates TSCA section 8(a) PAIR and TSCA section 8(d) HaSD reporting rules for chemicals added to the *Priority Testing List*. These rules require producers and importers of chemicals recommended by the ITC to submit production and exposure reports under TSCA section 8(a) and producers, importers, and processors of chemicals recommended by the ITC to submit unpublished health and safety studies under TSCA section 8(d). These rules are automatically promulgated by OPPT unless otherwise requested by the ITC.

B. *ITC's use of TSCA section 8 and ''other information.''* The ITC reviews the TSCA section 8(a) PAIR reports, TSCA section 8(d) HaSD studies and ''other information'' that becomes available *after* the ITC adds chemicals to the *Priority Testing List*. ''Other information'' includes TSCA section 4(a) and 4(d) studies, TSCA section 8(c) submissions, TSCA section 8(e) ''substantial risk'' notices, ''For Your Information'' (FYI) submissions, unpublished data submitted to and from U.S. Government organizations represented on the ITC, published papers, as well as use, exposure, effects, and persistence data that are voluntarily submitted to the ITC by manufacturers, importers, processors, and users of chemicals recommended by the ITC. The ITC reviews this information and determines if data needs should be revised, if chemicals should be removed from the *Priority Testing List* or if recommendations should be changed to designations.

C. *Promoting more efficient use of information submission resources*. The Voluntary Information Submissions Innovative Online Network (VISION) is accessible through the world wide web (http://www.epa.gov/opptintr/itc/vision.htm). VISION includes the VISP and links to the TSCA Electronic HaSD Reporting Form (http://www.epa.gov/opptintr/.er/hasd.htm). The EPA recently revised section 3.2 of the TSCA Electronic HaSD Reporting Form in response to ITC requests to provide

more details on requested use and exposure information (see 46th Report). The VISP provides examples of data needed by ITC member U.S. Government organizations, examples of studies that should not be submitted, the milestones for submitting information, guidelines for using the TSCA Electronic HaSD Reporting Form and instructions for electronically submitting full studies. The TSCA Electronic HaSD Reporting Form can be used to provide electronic information on ITC voluntary submissions, TSCA section 8(d) studies (to meet data needs of the ITC member U.S. Government organizations), FYI submissions, and TSCA section 8(e) studies.

The ITC encourages chemical producers, importers, processors, and users to voluntarily provide electronic information via VISION on chemicals for which the ITC is soliciting voluntary information and to establish a dialogue with the ITC to discuss needed data. To enhance visibility, the ITC will be adding all chemicals to the *Priority Testing List* for which it is voluntarily soliciting information along with a request that EPA not immediately promulgate TSCA section 8(a) PAIR and section 8(d) HaSD reporting rules. If the ITC does not receive voluntary electronic information submissions to meet its data needs according to the procedures in VISP, the ITC may then request that EPA promulgate TSCA section 8(a) PAIR and section 8(d) HaSD reporting rules to determine if there are unpublished data to meet those needs. The ITC strongly encourages those companies that must respond to a TSCA section 8(d) HaSD reporting rule to provide data by using the TSCA Electronic HaSD Reporting Form.

D. *Requests related to promulgation of TSCA section 8(a) PAIR and section 8(d) HaSD reporting rules.* In this Report, the ITC is asking the EPA to promulgate TSCA section 8(a) PAIR and section 8(d) HaSD reporting rules for 37 indium chemicals; pentachlorothiophenol; tetrachloropyrocatechol; *p*-toluidine, 5-chloro- .alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl; benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, 2-ethoxy-1-methyl-2-oxo; and 8 nonylphenol polyethoxylate degradation products. Reporting rules are being requested for pentachlorothiophenol; tetrachloropyrocatechol; *p*-toluidine, 5-chloro-.alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl; benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, 2-ethoxy-1-methyl-2-oxo; and the 8 nonylphenol polyethoxylate degradation products because needed information was not provided in response to the voluntary information solicitations published in the 46th Report. At this time, the ITC is requesting that EPA not promulgate TSCA section 8(a) PAIR and section 8(d) HaSD reporting rules for the 3 chloroalkenes (1,3-butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)-; 3-butenoic acid, 2,2,3,4,4-pentachloro-; and 3-butenoic acid, 2,2,3,4,4-pentachloro-butyl ester) to allow chloroalkenes producers, importers, processors, and users an opportunity to voluntarily provide the requested information.

III. ITC's Activities During this Reporting Period (May to October 2000): Information Solicitations

In its 46th Report, the ITC discussed its strategies to screen chemicals for persistence and bioconcentration potential (http://www.epa.gov/opptintr/itc). These strategies are referred to as Degradation Effects Bioconcentration Information Testing Strategies (DEBITS). DEBITS provides a means to prioritize chemicals based on degradation, ecological, or human health effects and bioconcentration information. During this reporting period, the ITC continued to focus its efforts on structural classes of chemicals from a subset of 42 moderate production volume (MPV) chemicals (production/importation volumes between 100,000 and 1,000,000 pounds) with estimated or measured bioconcentration factors (BCFs) > 250 and about 70 structurally related non-MPV chemicals (also with BCFs > 250). In its 46th Report, the ITC solicited information on three such structural classes:

1. Polychlorophenols and polychlorobenzenethiols,

2. Chlorotrifluoromethylphenoxy benzenes, and

3. Perfluorinated chemicals.

During this reporting period, the ITC continued its review of chemicals with potential to persist and bioconcentrate and decided to solicit information on chloroalkenes. The ITC is seeking information on uses, exposures, health effects, and ecological effects from the manufacturers, importers, and processors of chloroalkenes. The ITC is requesting that solicited information be electronically submitted before February 28, 2001, consistent with the 90-day milestone of the VISP (http://www.epa.gov/opptintr/itc/visp.htm) for submitting data through the TSCA Electronic HaSD Reporting Form. DEBITS will continue to be used to prioritize chemicals with potential to persist and bioconcentrate.

IV. Revisions to the TSCA Section 4(e) Priority Testing List: Chemicals Added to the Priority Testing List

A. Indium Chemicals

1. *Recommendation.* Indium chemicals are being added to the *Priority Testing List* to obtain importation, production, use, exposure, and health effects information to meet U.S. Government data needs.

2. *Rationales for recommendation.* There is clear evidence that indium phosphide causes tumors in rats and mice. As a result, indium phosphide and other indium chemicals are considered to be potentially carcinogenic to humans. Use of indium chemicals in the semiconductor and other industries may be increasing. Existing exposure limits may not be adequate to protect workers exposed to indium phosphide and other indium chemicals from an increased risk of lung cancer.

3. *Supporting information.* In a 2-year inhalation study there was clear evidence of carcinogenic activity of indium phosphide (Chemical Abstract Service number (CAS No.) 22398–80–7) in male and female F344/N rats and male and female B6C3F1 mice (http://ntp-server.niehs.nih.gov/htdocs/Results_Status/Resstati/M882472.Html). In this study, the incidence of benign and malignant neoplasms were increased in the lungs of male and female rats and mice at doses of 0.03, 0.1, and 0.3 milligram/meter^3 (mg/m^3). There was also an exposure-related increase in the incidence of benign and malignant neoplasms of the liver in male and female mice.

For indium and certain indium chemicals, the National Institute for Occupational Safety and Health's (NIOSH) Recommended Exposure Limit (REL), the American Council of Government Industrial Hygienists (ACGIH) threshold limit value (TLV), and the Occupational Safety and Health Administration's (OSHA) Permissible Exposure Limit (PEL) for construction and shipyard industries is 0.1 mg/m^3. The current occupational exposure limits may not be adequate to protect workers exposed to indium phosphide and other indium chemicals from increased risk of lung cancer, because benign and malignant neoplasms were increased in the lungs of both sexes of rats and mice at doses lower than the PEL, REL, and TLV. Furthermore, experimental studies in hamsters suggest that indium arsenide may induce effects in the lung comparable to indium phosphide. These studies raise the concern for other indium chemicals and their potential health effects.

The indium chemicals are believed to be increasingly used in the manufacture of semiconductors, injection lasers, solar cells, photodiodes, and light-emitting diodes. Worker exposures may occur during manufacturing and handling of these materials. However, there are no publicly available reports in the literature that assess workplace exposures to indium phosphide or other indium chemicals.

4. *Information needs*. The ITC needs:

i. Recent non-CBI estimates of annual production or importation volume data and trends, and use information, including percentages of production or importation that are associated with different uses;

ii. Estimates of the number of humans and concentrations of indium chemicals to which humans may be exposed in each relevant use, manufacturing, or processing scenario;

iii. Health effects data including pharmacokinetics, genotoxicity, subchronic toxicity, reproductive, and developmental toxicity, carcinogenicity and any human data from occupationally exposed workers.

The ITC seeks this information in order to adequately assess the extent and degree of exposure and potential hazard associated with the indium chemicals. Information is requested on the 37 indium-containing chemicals in Table 2 of this unit. Manufacturers, processors, and users of indium chemicals are encouraged to provide importation, production, use, exposure, and health effects information using the TSCA Electronic HaSD Reporting Form (http://www.epa.gov/opptintr/.er/hasd.htm).

TABLE 2.—INDIUM CHEMICALS BEING ADDED TO THE PRIORITY TESTING LIST

CAS No.	Chemical name
923–34–2	Triethylindium
1303–11–3	Indium arsenide
1312–41–0	Indium antimonide
1312–43–2	Indium (III) oxide
1312–45–4	Indium (III) telluride
4194–69–8	Indium (III) citrate
7440–74–6	Indium
7783–52–0	Indium (III) fluoride
10025–82–8	Indium (III) chloride
12018–95–0	Copper indium diselenide
12030–14–7	Indium (II) sulfide
12030–24–9	Indium (III) sulfide
12056–07–4	Indium selenide
12672–70–7	Indium chloride
12672–71–8	Indium (I) oxide
13464–82–9	Indium (III) sulfate
13510–35–5	Indium (III) iodide
13770–61–1	Indium (III) nitrate
13966–94–4	Indium (I) iodide
14166–78–0	Indium (III) fluoride
14280–53–6	Indium (I) bromide
14405–45–9	Indium *tris*(acetylacetonate)

TABLE 2.—INDIUM CHEMICALS BEING ADDED TO THE PRIORITY TESTING LIST—Continued

CAS No.	Chemical name
20661–21–6	Indium (III) hydroxide
22398–80–7	Indium (I) phosphide
25114–58–3	Indium (III) acetate
25617–98–5	Indium nitride
50926–11–9	Indium tin oxide
55326–87–9	Indium hydroxide
71243–84–0	Indium tin oxide
13465–09–3	Indium (III) bromide
13465–10–6	Indium (I) chloride
13709–93–8	Indium (III) borate
27765–48–6	Indium (III) tetrafluoroborate
66027–93–8	Indium (III) sulfamate
66027–94–9	Hydroxybis(trifluoroacetato-,*O*)indium
67816–06–2	Indium (III) 2-ethylhexanoate
68310–35–0	Indium (III) neodecanoate

B. Chloroalkenes

1. *Recommendation*. Three chloroalkenes are being added to the *Priority Testing List* to obtain information on uses, exposures, environmental releases, pharmacokinetics, subchronic toxicity, mutagenicity, reproductive and developmental effects, carcinogenicity, and ecological effects. At this time, the ITC is requesting that EPA not promulgate TSCA section 8(a) PAIR and section 8(d) HaSD reporting rules for these chemicals in order to allow chloroalkenes producers, importers, processors, and users an opportunity to voluntarily provide the requested information.

2. *Rationales for recommendation*. Two chloroalkenes are believed to be produced in substantial amounts and are predicted to persist and bioconcentrate in the environment. The third chloroalkene is a likely hydrolysis product of one of the other chloroakenes. All three chemicals present suspicion of toxicity based either on mutagenicity data or shared structural similarities with hexachloro-1,3-butadiene.

3. *Supporting information*. Chloroalkenes under review include 4 chemicals: Hexachloro-1,3-butadiene (CAS No. 87–68–3); 1,3-butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)- (CAS No. 68334–67–8); 3-butenoic acid, 2,2,3,4,4-pentachloro-butyl ester (CAS No. 75147–20–9); and 2,2,3,4,4-pentachloro-3-butanoic acid (CAS No. 85743–61–9). All except the 2,2,3,4,4-pentachloro-3-butenoic acid meet the DEBITS criteria and have BCFs >250. However, 2,2,3,4,4-pentachloro-3-butenoic acid is a hydrolysis product of 3-butenoic acid, 2,2,3,4,4-pentachloro-butyl ester. The ITC is not soliciting information on hexachloro-1,3-butadiene because data are being developed under the Organization for Economic Cooperation and Development (OECD) Screening Information Data Set (SIDS) program (http://www.oecd.org//ehs/guide/sd97-1.htm). Hexachloro-1,3-butadiene was included to provide opportunities to develop Structure Activity Relationships (SARs).

1,3-Butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)- meets the DEBITS criteria of ultimate predicted aerobic biodegradation rate of > 2-3 months and estimated log octanol-water partition coefficient (log P) ranging from 3 to 6. 1,3-Butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)- is a MPV chemical with a log P of 5.14 and estimated BCF of 509. The only health effects data for 1,3-butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)- were from acute toxicity tests in rats that estimated the LD_{50} to be 1,210 mg/kilogram (kg) body weight (Mallinckrodt, 1978a). No ecological effects data were obtained for this chemical. 1,3-Butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)- is structurally similar to hexachloro-1,3-butadiene and, therefore, may share some common metabolic pathways and related toxicities. Hexachloro-1,3-butadiene is known to be metabolically converted by glutathione *S*-transferase to the glutathione conjugate, and then to a cysteine sulfoxide, which is cytotoxic to the kidney proximal tubular cells. This metabolic activation is believed to be responsible for the nephrotoxicity associated with the chemical.

3-Butenoic acid, 2,2,3,4,4-pentachloro- butyl ester is another MPV chemical with BCF>250. It has an estimated log P of 4.42, and an estimated BCF of 1797. There are no ecological effects data for 3-butenoic acid, 2,2,3,4,4-pentachloro- butyl ester. Acute toxicity and genotoxicity studies were available for the chemical. The rat oral LD_{50} value was 2.09 gram (g)/kg body weight (Mallinckrodt, 1978b). Negative results were obtained in a reverse mutation assay using *Salmonella typhimurium* (TA-1535, TA-1537, TA-1538, TA-98, and TA-100) and *Saccharomyces cerevisiae* (D4) with or without metabolic activation (Mallinckrodt, 1984a). There was no significant increase in 6-thioguanine resistant mutation frequency in Chinese hamster ovary cells with or without metabolic activation (Mallinckrodt, 1984c). There was a positive response in an *Escherichia coli* microsuspension assay for DNA damage and in the frequency of sister chromatid exchange and chromosomal aberrations from Chinese hamster ovary cells (Mallinckrodt, 1984b,d,e).

3-Butenoic acid, 2,2,3,4,4-pentachloro-butyl ester is likely hydrolyzed to 2,2,3,4,4-pentachloro-3-butenoic acid. The latter chemical has a predicted aerobic biodegradation rate of > 2–3 months, an estimated log P of 3.38, an estimated BCF of 3, but its production volume is less than 10,000 pounds per annum. Like its butyl ester, 2,2,3,4,4-pentachloro-3-butenoic acid has some genotoxic activity. It caused reverse mutation in *Salmonella typhimurium* strain TA100 both with and without metabolic activation (Reichert et al. 1984) and induced both unscheduled DNA synthesis (with and without activation) and morphological transformation in Syrian hamster embryo fibroblasts (Schiffmann et al. 1984). 3-Butenoic acid, 2,2,3,4,4-pentachloro-butyl ester presents a suspicion of toxicity based on existing data and its metabolic relationship and structural similarity to 2,2,3,4,4-pentachloro-3-butenoic acid.

Information Profiles for 1,3-butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)-, 3-butenoic acid, 2,2,3,4,4-pentachloro-butyl ester and 2,2,3,4,4-pentachloro-3-butenoic acid will be available on the ITC's web site (http://www.epa.gov/opptintr/itc).

4. *Information needs*. The ITC needs information on uses, exposures, environmental releases, pharmacokinetics, subchronic toxicity, mutagenicity, reproductive and developmental effects, carcinogenicity, and ecological effects for 1,3-butadiene, 1,1,2,3,4-pentachloro-4-(1-methylethoxy)-; 3-butenoic acid, 2,2,3,4,4-pentachloro- and 3-butenoic acid, 2,2,3,4,4-pentachloro-butyl ester. In addition, the ITC needs hydrolysis rate data for 3-butenoic acid, 2,2,3,4,4-pentachloro-butyl ester. If the information is not voluntarily submitted in accordance with VISP, the ITC will ask EPA to promulgate TSCA section 8(a) PAIR and section 8(d) HaSD reporting rules in a subsequent Report.

C. Polychlorophenols and Polychlorobenzenethiols

1. *Recommendation*. Pentachlorothiophenol (CAS No. 133–49–3) and tetrachloropyrocatechol (CAS No. 1198–55–6) are being added to the *Priority Testing List* so that final TSCA section 8(a) and 8(d) rules will be promulgated by the EPA.

2. *Rationale for recommendation*. Information solicited in the 46th Report for pentachlorothiophenol and tetrachloropyrocatechol was not provided to the ITC.

3. *Supporting information*. Pentachlorothiophenol and tetrachloropyrocatechol meet the DEBITS criteria for persistence and bioconcentration. Pentachlorothiophenol has an estimated BCF of 7066. Tetrachloropyrocatechol's measured BCF ranges from 316–5011. There are no publicly available ecological effects and limited health effects data for pentachlorothiophenol. Tetrachloropyrocatechol has been shown to be highly toxic to fish but little is known about health effects in mammalian species. Pentachlorothiophenol and tetrachloropyrocatechol are metabolites of pentachlorophenol. Pentachlorothiophenol has also been detected in the urine of human populations exposed to hexachlorobenzene. The carcinogenicity, reproductive effects and developmental toxicities of hexachlorobenzene and pentachlorophenol are well known. The ITC believes that pentachlorothiophenol and tetrachloropyrocatechol present a suspicion of toxicity given the metabolic relationship and structural similarity to hexachlorobenzene and pentachlorophenol. Detailed information supporting the addition of pentachlorothiophenol and tetrachloropyrocatechol to the *Priority Testing List* was provided in the ITC's 46th Report.

4. *Information needs*. The ITC needs information on uses and data on exposures, environmental releases, pharmacokinetics, subchronic toxicity, reproductive and developmental effects, carcinogenicity, and ecological effects for pentachlorothiophenol and tetrachloropyrocatechol. The ITC also needs mutagenicity data for pentachlorothiophenol. Manufacturers, processors, and users of these chemicals are encouraged to provide importation, production, use, exposure, and health effects information using the TSCA Electronic HaSD Reporting Form (http://www.epa.gov/opptintr/.er/hasd.htm).

D. Chlorotrifluoromethylphenoxy Benzenes

1. *Recommendation*. *p*-Toluidine, 5-chloro- .alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl (CAS No. 1806–24–2) and benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, 2-ethoxy-1-methyl-2-oxo (CAS No. 88185–2–2) are being added to the *Priority Testing List* so that final TSCA section 8(a) and 8(d) rules will be promulgated by the EPA.

2. *Rationale for recommendation*. Information solicited in the 46th Report for *p*-toluidine, 5-chloro-.alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl and benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, 2-ethoxy-1-methyl-2-oxo was not provided to the ITC.

3. *Supporting information*. Eight chlorotrifluoromethylphenoxy benzenes were listed in the ITC's 46th Report. All were estimated to persist and seven had estimated BCFs > 250. Six chlorotrifluoromethylphenoxy benzenes were highly toxic to fish. One member of this class, Lactofen is a well-studied herbicide, considered by the U.S. EPA to be a probable human carcinogen. As a result of the oncogenicity and other adverse health effects associated with Lactofen, there is a heightened concern for potential toxicity of the other chlorotrifluoromethylphenoxy benzenes which have not been extensively investigated. Information was solicited for 4 of 8 chlorotrifluoromethylphenoxy benzenes listed in the ITC's 46th Report. Lactofen and three HPV chemicals were not included in the solicitation.

In response to the solicitation, the ITC learned that one of these chemicals, phenol, 5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitro- (CAS No. 42874–63–5) is a process intermediate that is not isolated from storage nor packaged for distribution in commerce. Another chlorotrifluoromethylphenoxy benzene for which information was solicited, benzene, 2-chloro-1-(3-methylphenoxy)-4-(trifluoromethyl)- (CAS No. 42874–96– 4) was previously added to a TSCA section 8(d) HaSD reporting rule as a result of its addition to the *Priority Testing List* in the ITC's 29th Report (56 FR 67424, December 30, 1991). Since it is already included in a TSCA section 8(d) HaSD reporting rule (47 FR 38780, October 4, 1982) and the reporting period is 10 years in length, benzene, 2-chloro-1-(3- methylphenoxy)-4-(trifluoromethyl)- does not have to be added to the *Priority Testing List* to facilitate that action. The other two chlorotrifluoromethylphenoxy benzenes, *p*-toluidine, 5-chloro-.alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl and benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, 2-ethoxy-1-methyl-2-oxo are being added to the *Priority Testing List*, because no information was submitted in response to the 46th Report solicitation. Detailed information supporting the addition of *p*-toluidine, 5-chloro-.alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl and benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, 2-ethoxy-1- methyl-2-oxo to the *Priority Testing List* was provided in the ITC's 46th Report.

4. *Information needs*. The ITC needs information on uses, exposures, environmental releases, ecological effects, pharmacokinetics, subchronic

toxicity, reproductive and developmental effects, mutagenicity, and carcinogenicity for *p*-toluidine, 5-chloro-.alpha.,.alpha.,.alpha.-trifluoro-2-nitro-*N*-phenyl and benzoic acid, 3-[2-chloro-4-(trifluoromethyl)phenoxy]-, 2-ethoxy-1-methyl-2-oxo.

V. References

1. Mallinckrodt Inc. 1978a. Initial Submission: Acute oral toxicity (LD_{50}) test in rats (Final Report) with cover letter dated 02/27/92; 10/13/78; EPA Doc. No. 88–920001282; Microfiche No. OTS0535871.
2. Mallinckrodt Inc. 1978b. Initial Submission: Letter submitting one enclosed acute toxicity series study with cover letter dated 02/27/92. EPA Doc. No. 88–920001280; Microfiche No. OTS0535869.
3. Mallinckrodt Inc. 1984a. Mutagenicity evaluation of M-388-48A in the Ames Salmonella/microsome plate test with cover letter dated 12/28/84; 03/01/78; EPA Doc. No. FYI-OTS–0185–0376; Microfiche No. OTS0000376–0.
4. Mallinckrodt Inc. 1984b. Escherichia coli microsuspension assay for DNA damage with compound M276; 02/23/84; EPA Doc. No. FYI-OTS-0185–0376; Microfiche No. OTS0000376–0.
5. Mallinckrodt Inc. 1984c. CHO/HGPRT forward mutation assay M276; 02/23/84; EPA Doc. No. FYI-OTS-0185–0376; Microfiche No. OTS0000376–0.
6. Mallinckrodt Inc. 1984d. *In vitro* sister chromatid exchange in Chinese hamster ovary cells with M276; 07/13/84; EPA Doc. No. FYI-OTS-0185–0376; Microfiche No. OTS0000376–0.
7. Mallinckrodt Inc. 1984e. *In vitro* chromosomal aberrations in Chinese hamster ovary cells with M276; 12/19/84; EPA Doc. No. FYI-OTS-0185–0376; Microfiche No. OTS0000376–0.
8. Reichert D, Neudecker T, Schèutz S. 1984. Mutagenicity of hexachlorobutadiene, perchlorobutenoic acid and perchlorobutenoic acid chloride. *Mutation Research*. 137:89–94.
9. Schiffmann D, Reichert D, Henschler D. 1984. Induction of morphological transformation and unscheduled DNA synthesis in Syrian hamster embryo fibroblasts by hexachlorobutadiene and its putative metabolite pentachlorobutenoic acid. *Cancer Letters*. 23:297–306.

VI. TSCA Interagency Testing Committee

Statutory Organizations and Their Representatives

Council on Environmental Quality
Vacant

Department of Commerce
National Institute of Standards and Technology
Robert Huie, Member
Barbara C. Levin, Alternate
National Oceanographic and Atmospheric Administration
Teri Rowles, Alternate

Environmental Protection Agency
Paul Campanella, Member
David R. Williams, Alternate

National Cancer Institute
Vacant

National Institute of Environmental Health Sciences
Scott Masten, Member
William Eastin, Alternate

National Institute for Occupational Safety and Health
Albert E. Munson, Member
Mark Toraason, Alternate

National Science Foundation
A. Frederick Thompson, Member
Marge Cavanaugh, Alternate

Occupational Safety and Health Administration
Val H. Schaeffer, Member, Chair
Lyn Penniman, Alternate

Liaison Organizations and Their Representatives

Agency for Toxic Substances and Disease Registry
William Cibulas, Member

Consumer Product Safety Commission
Jacqueline Ferrante, Member
Treye Thomas, Alternate

Department of Agriculture
Clifford P. Rice, Member

Department of Defense
Barbara Larcom, Member
Kenneth Still, Alternate
José Centeno, Alternate

Department of the Interior
Barnett A. Rattner, Member, Vice Chair

Food and Drug Administration
Ronald Lorentzen, Member
Raju Kammula, Alternate
David Hatten, Alternate

National Library of Medicine
Vera W. Hudson, Member

National Toxicology Program
NIEHS, FDA, and NIOSH Members

Counsel
Scott Sherlock, OPPT, EPA

Technical Support Contractor
Syracuse Research Corporation

ITC Staff
John D. Walker, Executive Director
Norma S. L. Williams, Executive Assistant

TSCA Interagency Testing Committee, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 260–1825; fax: (202) 260–7895; e-mail address: williams.norma@epa.gov; url: http://www.epa.gov/opptintr/itc.

[FR Doc. 01–8133 Filed 4–2–01; 8:45 am]

BILLING CODE 6560–50–S

Reader Aids

Federal Register

Vol. 66, No. 64

Tuesday, April 3, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@listserv.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, APRIL

17479–17620 2
17621–17774 3

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

7 CFR

916 17479
917 17479

12 CFR

337 17621

14 CFR

39 ..... 17487, 17490, 17492, 17495, 17498, 17499, 17506, 17508

Proposed Rules:

39 17641

16 CFR

2 17622
3 17622
4 17622

21 CFR

172 17508
510 17510
529 17510

Proposed Rules:

192 17517
592 17517

22 CFR

41 17511

26 CFR

Proposed Rules:

1 ..... 17517, 17518
301 17518
602 17518

29 CFR

Proposed Rules:

4902 17518

33 CFR

117 17512

40 CFR

52 17634
60 17599
70 17512
761 17602

Proposed Rules:

52 17641
81 17647

42 CFR

Proposed Rules:

36 17657
447 17657

47 CFR

73 17638

48 CFR

Ch. 1 17757
9 17754
14 17754
15 17754
31 17754
52 17754

Proposed Rules:

9 17758
14 17758
15 17758
31 17758
52 17758

49 CFR

533 17513

50 CFR

660 17639

Proposed Rules:

223 17659
224 17659
600 17668
622 17519
635 17520
648 17673
660 17681

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT APRIL 3, 2001

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Animal welfare:
Confiscation of animals
Effective date delay; published 2-2-01
Marine mammals; humane handling, care, treatment, and transportation
Effective date delay; published 2-2-01

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; published 4-3-01

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act:
Unsafe and unsound banking procedures—
Deposit broker notification, recordkeeping and reporting requirements; rescission; published 4-3-01

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; published 4-3-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; published 4-3-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Exportation and importation of animals and animal products:
Rinderpest and foot-and-mouth disease; disease status change—
South Africa; comments due by 4-10-01; published 2-9-01

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
Special milk, summer food service, child and adult care food, free and reduced price meals and free milk in schools programs—
State Medicaid and State Children's Health Insurance Program; children's eligibility information disclosure; comments due by 4-11-01; published 1-11-01

AGRICULTURE DEPARTMENT
Food Safety and Inspection Service
Meat and poultry inspection:
Retained water in raw meat and poultry products; poultry chilling requirements; comments due by 4-9-01; published 1-9-01

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic highly migratory species—
Pelagic longline management; comments due by 4-9-01; published 3-30-01
Magnuson-Stevens Act provisions—
Domestic fisheries; exempted fishing permits; comments due by 4-11-01; published 3-27-01
Foreign fishing vessels; fee schedule; comments due by 4-9-01; published 3-8-01
Northeastern United States fisheries—
Tilefish; comments due by 4-13-01; published 2-12-01

COMMODITY FUTURES TRADING COMMISSION
Commodity Exchange Act:
Futures commission merchants; customers' funds; opting out of segregation; comments due by 4-12-01; published 3-13-01
Commodity Futures Modernization Act of 2000; implementation:
Trading facilities, intermediaries, and clearing organizations; new regulatory framework; comments due by 4-9-01; published 3-9-01

DEFENSE DEPARTMENT
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE program—
Pharmacy Benefits Program, partial implementation; and National Defense Authorization Act for Fiscal Year 2001; implementation; comments due by 4-10-01; published 2-9-01

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Washington; perchloroethylene dry cleaning facilities; comments due by 4-11-01; published 3-12-01
Air programs:
Stratospheric ozone protection—
Laboratory essential uses (2001 CY); de minimis exemption; comments due by 4-12-01; published 3-13-01
Laboratory essential uses (2001 CY); de minimis exemption; comments due by 4-12-01; published 3-13-01
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Minnesota; comments due by 4-9-01; published 3-9-01
Minnesota; correction; comments due by 4-9-01; published 3-30-01
Utah; comments due by 4-9-01; published 3-9-01
Washington; comments due by 4-12-01; published 3-13-01

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Commercial mobile radio services—
Spectrum aggregation limits; biennial regulatory review; comments due by 4-13-01; published 2-12-01
Spectrum aggregation limits; biennial regulatory review; correction; comments due by 4-13-01; published 2-15-01
Digital television broadcasting—
740-806 MHz band; conversion to digital television; comments due by 4-10-01; published 4-3-01
Digital television stations; table of assignments:
Arkansas; comments due by 4-13-01; published 2-28-01
California; comments due by 4-9-01; published 2-21-01
Mississippi; comments due by 4-13-01; published 2-28-01
Texas; comments due by 4-13-01; published 2-28-01
Radio stations; table of assignments:
Missouri; comments due by 4-9-01; published 3-1-01
Texas; comments due by 4-9-01; published 3-1-01
Television stations; table of assignments:
Kansas; comments due by 4-13-01; published 2-28-01

FEDERAL HOUSING FINANCE BOARD
Federal home loan bank system:
Capital structure requirements; comments due by 4-9-01; published 3-9-01

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food for human consumption:
Imported food products that have been refused admission into U.S.; marking requirements and reimportation prohibitions; comments due by 4-9-01; published 1-22-01

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Group health plans; access, portability, and renewability requirements:
Bona fide wellness programs; comments due by 4-9-01; published 1-8-01
Nondiscrimination in health coverage in group market; comments due by 4-9-01; published 1-8-01

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:

Appalachian elktoe; comments due by 4-9-01; published 2-8-01
Critical habitat designations—
Quino checkerspot butterfly; comments due by 4-9-01; published 2-7-01
Spruce-fir moss spider; comments due by 4-13-01; published 2-12-01
Marine mammals:
Incidental take during specified activities—
Florida manatees; comments due by 4-11-01; published 3-12-01

LABOR DEPARTMENT
Employment and Training Administration
Welfare-to-work grants; governing provisions
Effective date delay; comments due by 4-11-01; published 2-12-01

LABOR DEPARTMENT
Pension and Welfare Benefits Administration
Group health plans; access, portability, and renewability requirements:
Bona fide wellness programs; comments due by 4-9-01; published 1-8-01
Nondiscrimination in health coverage in group market; comments due by 4-9-01; published 1-8-01

NUCLEAR REGULATORY COMMISSION
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list additions; comments due by 4-12-01; published 3-13-01

POSTAL SERVICE
Domestic Mail Manual:
First-class mail, standard mail, and bound printed matter flats; changes; comments due by 4-13-01; published 3-16-01
International Mail Manual:
International Customized Mail service; comments due by 4-9-01; published 3-8-01

SECURITIES AND EXCHANGE COMMISSION
Public utility holding companies:
Foreign utility companies; acquisition and ownership; comments due by 4-9-01; published 2-7-01

TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
Washington; comments due by 4-13-01; published 2-12-01
Vessel documentation and measurement:
Undocumented barges; numbering; comments due by 4-11-01; published 1-11-01

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Bell; comments due by 4-9-01; published 2-6-01
Boeing; comments due by 4-9-01; published 2-21-01
Cessna; comments due by 4-13-01; published 2-12-01
General Electric Co.; comments due by 4-11-01; published 3-12-01
McDonnell Douglas; comments due by 4-9-01; published 2-21-01
Pilatus Aircraft Ltd.; comments due by 4-12-01; published 3-5-01
Pratt & Whitney; comments due by 4-9-01; published 2-6-01
Valentin GmbH; comments due by 4-13-01; published 3-23-01

TRANSPORTATION DEPARTMENT
Federal Motor Carrier Safety Administration
Motor carrier safety standards:
Small passenger-carrying commercial motor vehicles used in interstate commerce; operator safety requirements; comments due by 4-11-01; published 1-11-01

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Hazardous materials:
Carriage by rail and carriage by public highway; Regulatory Flexibility Act and plain language reviews; comments due by 4-12-01; published 1-12-01

TREASURY DEPARTMENT
Customs Service
Articles conditionally free, subject to reduced rates, etc.:
Beverages made wuth Caribbean rum; duty-free treatment; comments due by 4-10-01; published 2-9-01
Drawback:
Unused merchandise drawback; merchandise processing fee; comments due by 4-10-01; published 2-9-01

TREASURY DEPARTMENT
Internal Revenue Service
Excise taxes:
Excess benefit transactions; cross-reference; comments due by 4-10-01; published 1-10-01
Group health plans; access, portability, and renewability requirements—
Bona fide wellness programs; comments due by 4-9-01; published 1-8-01
Nondiscrimination in health coverage in group market; cross-reference; comments due by 4-9-01; published 1-8-01
Nondiscrimination in health coverage in group market; comments due by 4-9-01; published 1-8-01
Nondiscrimination requirements for certain grandfathered church plans; exception; comments due by 4-9-01; published 1-8-01
Income taxes:
Annuity contracts; debt instruments with original issue discount; comments due by 4-12-01; published 1-12-01
Cafeteria plans; tax treatment; cross-reference; comments due by 4-10-01; published 1-10-01
Procedure and administration:
Returns and return information disclosure to taxpayer designee; cross-reference; comments due by 4-11-01; published 1-11-01

TREASURY DEPARTMENT
Practice before Internal Revenue Service:
Regulations modifications; comments due by 4-12-01; published 1-12-01
Privacy Act; implementation; comments due by 4-9-01; published 3-8-01

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S.J. Res. 6/P.L. 107–5

Providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics. (Mar. 20, 2001; 115 Stat. 7)

Last List March 20, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to http://hydra.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Contents

Federal Register

Vol. 66, No. 63

Monday, April 2, 2001

Editorial Note: In the **Federal Register** of April 2, 2001, all the page numbers were inadvertently omitted from that issue's table of contents. A corrected table of contents for the April 2, 2001 issue follows:

Agricultural Marketing Service
RULES
Nectarines and peaches grown in—
California, 17479–17486

Agriculture Department
See Agricultural Marketing Service

Bonneville Power Administration
NOTICES
Electric power transmission, acquisition, and conservation:
Federal Columbia River Transmission System—
Goldendale Energy Project; electrical interconnection, 17542

Centers for Disease Control and Prevention
NOTICES
Committees; establishment, renewal, termination, etc.:
Tuberculosis Elimination Advisory Council, 17558–17559
Tobacco in cigarettes, list of ingredients; submission requirements, 17559
Tobacco in smokeless tobacco products during manufacture, list of ingredients; submission requirements, 17559

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
State Developmental Disabilities Councils and Protection and Advocacy Programs; Federal allotments, 17559–17562

Coast Guard
RULES
Drawbridge operations:
California, 17511–17512
NOTICES
Meetings:
Lower Mississippi River Waterway Safety Advisory Committee, 17594

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Textile and apparel categories:
United States-Caribbean Basin Trade Partnership Act; short supply requests—
100 percent polyester yarn of 150 denier/140 filament textured polyester, etc., 17534–17535

Defense Department
See Navy Department
NOTICES
Meetings:
Electron Devices Advisory Group, 17535–17536
Science Board task forces, 17536
V-22 Program Review Panel, 17536

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Postsecondary Education Improvement Fund, 17537–17538
Meetings:
Institutional Quality and Integrity National Advisory Committee, 17538–17540
Postsecondary education:
Accrediting agencies and State approval agencies for vocational and nurse education institutions; national recognition; comment request, 17540–17541

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17541
Meetings:
Hydrogen Technical Advisory Panel, 17541–17542
National Coal Council, 17542

Environmental Protection Agency
RULES
Air pollution control:
State operating permits programs—
Washington, 17512–17513
Air programs; State authority delegations:
Colorado; correction, 17599
Toxic substances:
Polychlorinated biphenyls (PCBs)—
PCB and PCB-contaminated electrical equipment; reclassification requirements, 17601–17619

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus, 17490–17491, 17495–17497
Boeing, 17487–17490, 17492–17495
Bombardier, 17506–17508
Dowty Aerospace Propellers; correction, 17508
McDonnell Douglas, 17499–17506
Saab, 17497–17499
NOTICES
Airport noise compatibility program:
Dillingham Airfield, Mokuleia, HI, 17594–17595
Meetings:
Aviation Security Advisory Committee, 17595–17596
Passenger facility charges; applications, etc.:
Valdosta Regional Airport, GA, 17596

Federal Communications Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17550–17551

Reporting and recordkeeping requirements, 17551–17554
Common carrier services:
Wireless telecommunications services—
National Historic Preservation Act; wireless antennas co-location existing structures; programmatic agreement, 17554–17557
Rulemaking proceedings; petitions filed, granted, denied, etc., 17557

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Kentucky Mountain Power, LLC, et al., 17543–17545
Environmental statements; availability, etc.:
Northbrook Carolina Hydro, L.L.C., 17545
Hydroelectric applications, 17545–17547
Meetings:
Interstate natural gas facility-planning seminar, 17547–17550
Applications, hearings, determinations, etc.:
Georges Colliers, Inc., 17542–17543

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Kelso-Martin's Bluff Rail Project, WA, 17596–17597

Federal Housing Finance Board
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17557–17558

Federal Railroad Administration
NOTICES
Environmental statements; notice of intent:
Kelso-Martin's Bluff Rail Project, WA, 17596–17597

Federal Reserve System
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 17558

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
Minrad, Inc., 17509–17510
Food additives:
Food starch-modified by amylolytic enzymes, 17508–17509
PROPOSED RULES
Food for human consumption, and animal drugs, feeds, and related products:
Plant-derived bioengineered foods; premarket notice, 17517
NOTICES
Meetings:
Medical Devices Advisory Committee, 17562
Reports and guidance documents; availability, etc.:
Medical devices—
Biomaterials Access Assurance Act of 1998; implementation, 17562–17564
Diagnostic x-ray systems; disclosure by manufacturers to assemblers, 17564–17565

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Texas, Ohio, and Oklahoma—
Phillips Petroleum Co., Sunoco, Inc., and Conoco, Inc.; oil refinery complexes; correction, 17523

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Indian Health Service
See Substance Abuse and Mental Health Services Administration
NOTICES
State assistance expenditures; Federal financial participation, 17558

Housing and Urban Development Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17566
Submission for OMB review; comment request, 17567–17569

Immigration and Naturalization Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17576–17577

Indian Health Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17565

Interior Department
See Geological Survey
See Land Management Bureau
See National Park Service

Internal Revenue Service
PROPOSED RULES
Income taxes:
Capitalization of interest and carrying charges properly allocable to straddles
Correction, 17517–17518
Trust treated as part of estate; election; hearing cancellation, 17518

International Trade Administration
NOTICES
Antidumping and countervailing duties:
Administrative review requests, 17523–17524
Five-year (sunset) reviews—
Final results and revocations, 17524
Initiation of reviews, 17524–17525
Countervailing duties:
Hot-rolled carbon steel flat products from—
Various countries, 17525–17526

International Trade Commission
NOTICES
Import investigations:
Polyvinyl alcohol from—
Various countries, 17574–17576

Justice Department
See Immigration and Naturalization Service

See Victims of Crime Office

Land Management Bureau
NOTICES
Closure of public lands:
Nevada, 17569
Meetings:
Klamath Provisional Advisory Committee, 17569

National Highway Traffic Safety Administration
RULES
Fuel economy standards:
Light trucks; 2003 model year, 17513–17516

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Atlantic highly migratory species—
Atlantic bluefin tuna, 17520–17522
Caribbean, Gulf, and South Atlantic fisheries—
South Atlantic Fishery Management Council; meetings, 17519–17520
NOTICES
Grants and cooperative agreements; availability, etc.:
Educational Partnership Program—
Cooperative Science Centers in Atmospheric, Oceanic and Environmental Sciences, and Remote Sensing; establishment at Minority Serving Institutions, 17526–17530
Meetings:
Gulf of Mexico Management Council, 17530–17531
South Atlantic Fishery Management Council, 17531
Senior Executive Service:
Performance Review Board; membership, 17531

National Park Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17569–17570
Meetings:
National Park System Advisory Board; correction, 17570
National Register of Historic Places:
Pending nominations, 17570–17571
Native American human remains and associated funerary objects:
Land Management Bureau, New Mexico State Office, NM—
Inventory from various sites in New Mexico, 17571–17572
Navajo inventory from Governador Canyon and Adams Canyon and other sites, NM, 17571
Peabody Essex Museum, MA—
Wooden bowl and spear from Kanupa burial cave, HI, 17572–17573
University of Pennsylvania, Museum of Archaeology and Anthropology, PA—
Dilzini Gaan mask from unknown site, AZ, 17573–17574
Painted wood ceremonial masks from Holikachuk village, AK, 17573

Navy Department
NOTICES
Meetings:
Naval Academy, Board of Visitors, 17536–17537

Nuclear Regulatory Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17583
Submission for OMB review; comment request, 17583–17584
Regulatory guides; issuance, availability, and withdrawal, 17586
Applications, hearings, determinations, etc.:
Duke Energy Corp., 17584
Niagara Mohawk Power Corp., 17584–17586

Patent and Trademark Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17531–17534

Pension Benefit Guaranty Corporation
PROPOSED RULES
Privacy Act; implementation, 17518–17519
NOTICES
Privacy Act:
Systems of records, 17586–17588

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Indian Health Service
See Substance Abuse and Mental Health Services Administration

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17588
Investment Company Act of 1940:
Exemption applications—
Wells Fargo Funds Trust et al., 17588–17589
Self-regulatory organizations; proposed rule changes:
International Securities Exchange LLC, 17590
Philadelphia Stock Exchange, Inc., 17591–17592

Social Security Administration
NOTICES
Agency information collection activities:
Proposed collection and submission for OMB review; comment request, 17592–17593

State Department
RULES
Visas; nonimmigrant documentation:
Border crossing cards for Mexicans under age 15; fee reduction, 17510–17511
NOTICES
Art objects; importation for exhibition:
Road to Aztlan: Art from the Mythic Homeland, 17593–17594

Substance Abuse and Mental Health Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Starting Early Starting Smart Data Coordinating Center, 17565–17566

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration

Treasury Department
See Internal Revenue Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17597–17598

Victims of Crime Office
NOTICES
Reports and guidance documents; availability, etc.:
Antiterrorism and Emergency Fund for terrorism and mass violence crimes; guidelines, 17577–17583

Separate Parts In This Issue

Part II
Environmental Protection Agency, 17601–17619

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.