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5–21–01 **Monday**

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Pages 27825–28048

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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, May 22, 2001 at 9:00 a.m.

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

RESERVATIONS: 202–523–4538

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Separate Parts In This Issue

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.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 2001–14 of April 30, 2001

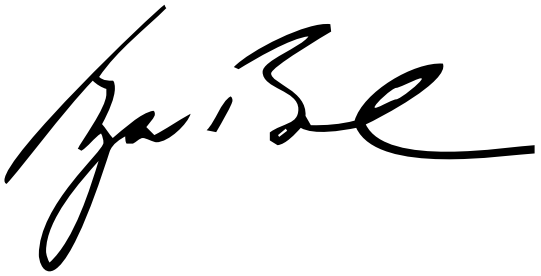
Certification To Permit U.S. Contributions to the International Fund for Ireland With Fiscal Year 2000 and 2001 Funds

Memorandum for the Secretary of State

Pursuant to section 5(c) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415), as amended in section 2811 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (as contained in Public Law 105–277), I hereby certify that I am satisfied that: (1) the Board of the International Fund for Ireland, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and (2) disbursements from the International Fund (a) will be distributed to individuals and entities whose practices are consistent with the principles of economic justice; and (b) will address the needs of both communities in Northern Ireland and will create employment opportunities in regions and communities of Northern Ireland suffering from high rates of unemployment.

You are authorized and directed to transmit this determination, together with the attached statement setting forth a detailed explanation of the basis for this certification, to the Congress.

This determination shall be effective immediately and shall be published in the **Federal Register**.



THE WHITE HOUSE,
Washington, April 30, 2001.

[FR Doc. 01–12847
Filed 5–18–01; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 2001–15 of May 11, 2001

Cooperation by Vietnam in Accounting for United States Prisoners of War and Missing in Action

Memorandum for the Secretary of State

As provided under section 610 of the Departments of Commerce, Justice, and State, the Judiciary and Other Independent Agencies Appropriations Act, 2001, as contained in the Consolidated Appropriations Act for FY 2001, Public Law 196–553, I hereby determine, based on all information available to the United States Government, that the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following four areas related to achieving the fullest possible accounting for Americans unaccounted for as a result of the Vietnam War:

1) resolving discrepancy cases, live sightings, and field activities;
2) recovering and repatriating American remains;
3) accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs; and,
4) providing further assistance in implementing trilateral investigations with Laos.

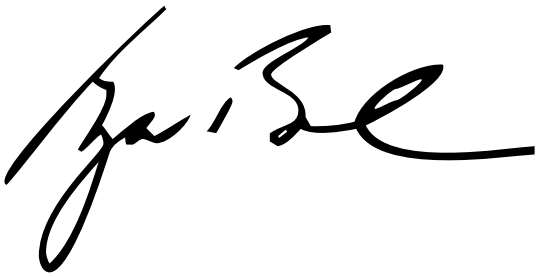
I further determine that the appropriate laboratories associated with POW/MIA accounting are thoroughly analyzing remains, material, and other information and fulfilling their responsibilities as set forth in subsection (B) of section 610, and information pertaining to this accounting is being made available to immediate family members in compliance with 50 U.S.C. 435 note.

I have been advised and believe that section 610 is unconstitutional because it purports to use a condition on appropriations as a means to direct my execution of responsibilities that the Constitution commits exclusively to the President. I am providing this determination as a matter of comity, while reserving the position that the condition enacted in section 610 is unconstitutional.

In making this determination, I have taken into account all information available to the United States Government as reported to me, the full range of ongoing accounting activities in Vietnam, including joint and unilateral Vietnamese efforts, and the concrete results we have attained as a result.

Finally, in making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting of our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, May 11, 2001.

[FR Doc. 01–12848
Filed 5–18–01; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1773

RIN 0572–AB66

Policy on Audits of RUS Borrowers; Management Letter

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulations by revising certain requirements regarding the management letter to be provided to RUS by certified public accountants (CPAs) as part of audits of RUS borrowers.

DATES: This rule will become effective July 5, 2001, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 20, 2001. If we receive such comments or notice, we will publish a timely document in the **Federal Register** withdrawing the rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Staff, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between the 8 a.m. and 4 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1523, Washington, DC 20250–1523. Telephone: 202–720–5227.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with state and local offices. See the final rule related notice entitled ''Department Programs and Activities Excluded from Executive Order 12372,'' (50 FR 47034).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any are required, must be exhausted before an action against the Department or its agencies.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS loan programs provide borrowers with loans at interest rates and terms that are more favorable than those generally available from the private sector. Borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct cost associated with RUS regulations and requirements.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under Nos. 10.850, Rural Electrification Loans and Loan Guarantees, 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572–0095, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW., Stop 1522, Washington, DC 20250–1522.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

Background

Title 7 part 1773 implements the standard RUS security instrument provision requiring RUS electric and telecommunications borrowers to prepare and furnish to RUS, at least once during each 12-month period, a full and complete report of its financial condition, operations, and cash flows,

in form and substance satisfactory to RUS; audited and certified by an independent Certified Public Accountant (CPA), satisfactory to RUS, and accompanied by a report of such audit, in form and substance satisfactory to RUS.

This rule revises requirements for the management letter. Section 1773.33(c) is revised to address continuing property records (CPRs) rather than the term plant records. In addition, the requirement that the CPA state whether the CPRs have been established, is expanded wherein the CPA must state that the CPRs are established, maintained on a current basis, and are reconciled to the general ledger plant accounts. The requirements for the CPA to determine that the borrower secured RUS approval for the sale of plant in § 1773(c)(5) is expanded to include the sale, lease, or transfer of assets secured under the mortgage and to state whether the proceeds were handled in conformance with RUS requirements.

The following requirements under § 1773.33 are eliminated: (1) The requirement for the CPA to determine that loan funds were deposited in banks designated in the loan documents; (2) a corresponding requirement in the telecommunications management letter; (3) the requirement for the CPA to determine that the borrower has complied with the RUS requirement for approval of any lease of a building or land, standard traffic settlement agreement, billing and collecting agreements, toll pooling arrangements, directory service agreements, and joint-use agreement; and (4) the requirement for the CPA to determine borrower compliance with the requirement to maintain a net plant to secured debt ratio or a funded reserve for certain loans wherein the maturity period exceeds the economic life of the plant facilities being financed.

Section 1773.33, Management Letter, specifies the minimum requirements for the CPA's management letter. RUS borrowers have increasingly diversified into other utility and nonutility related activities through the formation of subsidiary and affiliated companies. RUS has need of information on investments in these subsidiary and affiliated companies to assist in its efforts to monitor loan security issues and respond to claims of cross subsidization. A new requirement for the CPA to provide a detailed analysis of borrowers' investments is therefore being added to the management letter requirements. The CPA is required to disclose certain general and financial information regarding each of a borrower's investments in subsidiary and affiliated companies accounted for on the cost or equity basis. This information is readily available in the investment subsidiary records.

In previous versions of part 1773 the sample reports, financial statements, and management letters were contained in four appendices, two for electric borrowers and two for telecommunications borrowers. Beginning with this revision of part 1773, the appendices will no longer be codified in the Code of Federal Regulations. The appendices will be available in new RUS Bulletin 1773–1, which will contain all of 7 CFR part 1773 and the appendices. Appendix A will contain the sample reports, financial statements and management letter for electric borrowers while Appendix B will contain similar sample for telecommunications borrowers. The exhibits of the management letters, which are included in the appendices, are attached to this notice for information only. Publishing part 1773 in bulletin form will provide the RUS audit policy in a user-friendly format. A single copy of this publication will be provided to all RUS borrowers and certified public accounts approved to perform audits of RUS borrowers and will be available at http://www.usda.gov/rus/ruswide.htm.

List of Subjects in 7 CFR Part 1773

Accounting, Electric power, Loan programs—communications, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas, Telephone.

For the reasons set forth in the preamble, RUS amends 7 CFR Chapter XVII as follows:

PART 1773—POLICY ON AUDITS OF RUS BORROWERS

1. The authority citation for Part 1773 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

§ 1773.33 [Amended]

2. Amend § 1773.33 by:

A. Removing paragraphs (e)(1)(i), (e)(2)(i), (e)(2)(i)(B) through (e)(2)(ii), and (e)(2)(iv);

B. Redesignate paragraphs as listed in the table below:

From	To
(e)(1)(ii)	(e)(1)(i)
(e)(1)(iii)	(e)(1)(ii)
(e)(2)(i)(A)	(e)(2)(i)
(e)(2)(iii)	(e)(2)(ii)

C. Revising paragraphs (c)(1), (c)(5), (e) introductory text, (e)(1) introductory text, and (e)(2) introductory text and redesignated paragraphs (e)(1)(i) and (e)(2)(i); and

D. Adding a new paragraph (i).

The revisions and additions read as follows:

§ 1773.33 Management letter.

* * * * *

(c) * * *

(1) Whether continuing property records (CPRs) have been established, are updated on a current basis, at least annually, and are reconciled with the controlling general ledger plant accounts;

* * * * *

(5) Whether RUS approval was obtained for the sale, lease or transfer of capital assets secured under the mortgage when approval is required, and whether proceeds from the sale or lease of plant, material or scrap were handled in conformance with RUS requirements.

* * * * *

(e) *Compliance with RUS loan and security instrument provisions.* State whether the following provisions of RUS' loan and security instruments have been complied with:

(1) For electric borrowers, provisions related to:

(i) The requirements for a borrower to obtain written approval of mortgagees to enter into any contract for the management, operation, or maintenance of the borrower's system if the contract covers all or substantially all (90 percent) of the electric system. For purposes of this part, the following contracts shall be deemed as requiring RUS approval:

* * * * *

(2) For telecommunications borrowers, provisions relating to the requirement for a borrower to obtain written approval of the mortgagees to enter into:

(i) Any contract, agreement or lease between the borrower and an affiliate other than as allowed under 7 CFR part 1744, subpart E;

* * * * *

(i) *Investments.* For electric and telecommunications borrowers, provide a detailed schedule of all investments in subsidiary and affiliated companies accounted for on either the cost or equity basis. This requirement includes investments in corporations, limited liability corporations and partnerships, joint ventures, etc. For all investments list the name of the entity, ownership percentage, and the principal business in which the entity is engaged. For investments recorded on the cost basis include the original investment,

advances, dividends declared or paid in the current and prior years and the net investment. For investments recorded on the equity basis include the ownership percentage, original investment, advances, and current and prior years' earnings and losses, including accumulated losses in excess of the original investment.

Dated: May 8, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

The Following Appendixes Will Not Appear in the Code of Federal Regulations

Exhibit 5—Illustrative Independent Auditor's Management Letter for Electric Borrowers to Appendix A to RUS Bulletin 1773–1, Sample Auditor's Report for an Electric Cooperative

Exhibit 5—Illustrative Independent Auditor's Management Letter for Electric Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Electric Borrowers

March 2, 20X2
Board of Directors
Center County Electric Energy Association, Inc.
[City, State]

We have audited the financial statements of Center County Electric Energy Association, Inc. for the year ended December 31, 20X1, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR Part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Electric Energy Association, Inc. for the year ended December 31, 20X1, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

Section 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in § 1773.33(e)(1), related party transactions, depreciation rates, a schedule of deferred debits and credits, and a schedule of investments upon which we express an opinion. In addition, our audit of the financial statements also included the procedures specified in § 1773.38 through 1773.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports other than our independent auditors' report and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 2002 or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by § 1773.33 are presented below.

Comments on Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding Center County Electric Energy Association, Inc.'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];
—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and
—The materials control [list other comments].

Comments on Compliance With Specific RUS Loan and Security Instrument Provisions

At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others for the year ended December 31, 20X1:

1. Obtained and read a borrower-prepared schedule of new written contracts entered into during the year for the operation or maintenance of its property, or for the use of its property by others as defined in § 1773.33(e)(1)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

Procedure performed with respect to the requirement to submit RUS Form 7 or Form 12 to the RUS:

1. Agreed amounts reported in Form 7 or Form 12 to Center County Electric Energy Association, Inc.'s records.

The results of our tests indicate that, with respect to the items tested, Center County Electric Energy Association, Inc. complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others as defined in § 1773.33(e)(1)(i) [list all exceptions]; and
—The borrower has submitted its Form 7 or Form 12 to the RUS and the Form 7 or Form 12, Financial and Statistical Report, as of December 31, 20X1, represented by the borrower as having been submitted to RUS is in agreement with the Center County Electric Energy Association, Inc.'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of Center County Electric Energy Association, Inc., nothing came to our attention that caused us to believe that Center County Electric Energy Association, Inc. failed to comply with respect to:

—The reconciliation of continuing property records to the controlling general ledger

plant accounts addressed at § 1773.33(c)(1) [list all exceptions];
—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at § 1773.33(c)(2) [list all exceptions];
—The retirement of plant addressed at § 1773.33(c)(3) and (4) [list all exceptions];
—Approval of the sale, lease, or transfer of capital assets and disposition of proceeds for the sale or lease of plant, material, or scrap addressed at § 1773.33(c)(5) [list all exceptions];
—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 2001, in the financial statements referenced in the first paragraph of this report addressed at § 1773.33(f) [list all exceptions];
—The depreciation rates addressed at § 1773.33(g) [list all exceptions];
—The detailed schedule of deferred debits and deferred credits; and
—The detailed schedule of investments.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of deferred debits and deferred credits required by § 1773.33(h) and the detailed schedule of investments required by § 1773.33(i), and provided below, are presented for purposes of additional analysis and are not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of deferred debits and deferred credits would be included here. The total amount of deferred debits and deferred credits as reported in the schedule must agree with the totals reported on the Balance Sheet under the specific captions of ''Deferred Debits'' and ''Deferred Credits''. Those items that have been approved, in writing, by RUS should be clearly indicated.]

[The detailed schedule of investments would be included here. The total of the investment in each company reported must agree with the investment subsidiary accounts.]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

Exhibit 5—Illustrative Independent Auditor's Management Letter for Telecommunications Borrowers to Appendix B to RUS bulletin 1773–1, sample auditor's report for a telecommunications Cooperative

Exhibit 5—Illustrative Independent Auditor's Management Letter for Telecommunications Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Telecommunications Borrowers

March 2, 2002
Board of Directors
Center County
Telecommunications Systems, Inc.
(City, State)

We have audited the financial statements of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR Part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

Section 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in § 1773.33(e)(2), and related party transactions and investments. In addition, our audit of the financial statements also included the procedures specified in § 1773.38 through 1773.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports other than our independent auditors' report, and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 2002 or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by § 1773.33 are presented below.

Comments On Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding Center County Telecommunications Systems, Inc.'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];
—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and—
The materials control [list other comments].

Comments On Compliance With Specific RUS Loan and Security Instrument Provisions

At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract, agreement or lease between the borrower and an affiliate for the year ended December 31, 2001:

1. Obtained and read a borrower-prepared schedule of new written contracts, agreements or leases entered into during the year between the borrower and an affiliate as defined in § 1773.33(e)(2)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 479 to the RUS:

1. Agreed amounts reported in Form 479 to Center County Telecommunications Systems, Inc.'s records.

The results of our tests indicate that, with respect to the items tested, Center County Telecommunications Systems, Inc. complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract agreement or lease with an affiliate as defined in § 1773.33(e)(2)(i) [list all exceptions]; and

—The borrower has submitted its Form 479 to the RUS and the Form 479, Financial and Statistical Report, as of December 31, 2001, represented by the borrower as having been submitted to RUS is in agreement with the Center County Telecommunications Systems, Inc.'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of Center County Telecommunications Systems, Inc., nothing came to our attention that caused us to believe that Center County Telecommunications Systems, Inc. failed to comply with respect to:

—The reconciliation of continuing property records to the controlling general ledger plant accounts addressed at § 1773.33(c)(1) [list all exceptions];

—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at § 1773.33(c)(2) [list all exceptions];

—The retirement of plant addressed at § 1773.33(c)(3) and (4) [list all exceptions];

—The approval of the sale, lease, or transfer of capital assets and disposition of proceeds for the sale of lease of plant, material, or scrap addressed at § 1773.33(c)(5) [list all exceptions]; The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 2001, in the financial statements referenced in the first paragraph of this report addressed at § 1773.33(f) [list all exceptions]; and

—The detailed schedule of investments.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of investments required by § 1773.33(i) and provided below is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of investments would be included here. The total of the investment in each company reported must agree with the detail investment subsidiary accounts.]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

[FR Doc. 01–12129 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1773

RIN 0572–AB62

Policy on Audits of RUS Borrowers; Generally Accepted Government Auditing Standards (GAGAS)

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Utilities Service (RUS) is amending its regulations to include in its audit requirements for electric and telecommunications borrowers recent amendments to the Generally Accepted Government Auditing Standards (GAGAS) issued by the Government Accounting Office (GAO) and to make other minor changes and corrections.

DATES: This rule will become effective July 5, 2001 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 20, 2001. If we receive such comments or notice, we will publish a timely document in the **Federal Register** withdrawing the rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between 8 a.m. and 4 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1523, Washington, DC 20250–1523. Telephone: 202–720–5227.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with state and local offices. See the final rule related notice entitled ''Department Programs and Activities Excluded from Executive Order 12372,'' (50 FR 47034).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any are required, must be exhausted before an action against the Department or its agencies.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS loan programs provide borrowers with loans at interest rates and terms that are more favorable than those generally available from the private sector. Borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct cost associated with RUS regulations and requirements.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the

National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under Nos. 10.850, Rural Electrification Loans and Loan Guarantees, 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572–0095, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C chapter 35).

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW, Stop 1522, Washington, DC 20250–1522.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

Background

Title 7 part 1773 implements the standard RUS security instrument provision requiring RUS electric and telecommunications borrowers to prepare and furnish to RUS, at least once during each 12-month period, a full and complete report of their financial condition, operations, and cash flows, in form and substance satisfactory to RUS; audited and certified by an independent Certified Public Accountant (CPA), satisfactory to RUS, and accompanied by a report of such audit, in form and substance satisfactory to RUS.

This rule amends part 1773 to reflect two amendments to Generally Accepted Government Auditing Standards (GAGAS) adopted in 1999 by the General Accounting Office (GAO): Amendment No. 1 to GAGAS, dated May 13, 1999, and Amendment No. 2 to GAGAS, dated July 30, 1999.

Amendment No. 1 to GAGAS established a new field work standard that requires auditors to document in the working papers the basis for assessing control risk at the maximum level for assertions related to material accounts balances, transaction classes, and disclosure components of financial statements when such assertions are significantly dependent on computerized information systems. The new standard also requires the auditors to document their consideration that the planned audit procedures are designed to achieve audit objectives and to reduce audit risk to an acceptable level. These new requirements are achieved through compliance with §§ 1773.7(a) and 1773.7(b).

Amendment No. 2 to GAGAS created a new fieldwork standard for planning titled ''Auditor Communication'' by moving and expanding an existing standard from the reporting standards. This rule revises § 1773.6 to comply with this new standard. Amendment No. 2 also changed the term ''irregularities'' to ''fraud'' in regards to the requirements for reporting on compliance with laws and regulations and internal control over financial reporting. This rule revises § 1773.9 to incorporate this change in terminology. Finally, GAGAS requires the auditor to emphasize in the auditor's report the importance of the report on compliance and on internal control over financial reporting when this report is issued separately from the report on the financial statements. This rule revises § 1773.31, to incorporate this requirement into the auditor's report.

On July 17, 1998, RUS issued, as a final rule, 7 CFR part 1773 (63 FR 38720) which incorporated the 1994 revisions of GAGAS. Those 1994 GAGAS revisions, as well as the 1999 amendments noted above, revised and updated some of the standard terminology used to describe the requirements for performing audits in conformance with GAGAS. This rule updates the appropriate sections of this part to conform to the GAGAS requirements.

The 1998 revisions to part 1773 combined the separate report on compliance and report on internal control into a single report titled ''Reports on Compliance and on Internal Control Over Financial Reporting''. In making the changes to substitute the combined report in the appropriate sections of part 1773, the references to the separate report on compliance were not removed thus leading the reader to conclude that the separate report on compliance was still required. This rule eliminates all the references to the report on compliance. In addition, the 1998 revision references to the telephone program were changed to telecommunications program. Not all of the references were changed and this rule will serve to make those additional corrections. The 1998 revision also reduced, from 42 months to 36 months, the period of time required in which the CPA must undergo the issuance of a new peer review. Two references to the 42-month requirement in § 1773.5(c) that were missed in the 1998 final rule are revised with this rule.

This rule adds, changes, and deletes definitions to reflect the GAGAS amendments noted above as well as the changing structure of the RUS organization and its policies and procedures. A definition is added for Assistant Administrator, Program Accounting and Regulatory Analysis, to replace the Director, Program Accounting Services Division. The name of the Borrower Accounting Division was changed to Program Accounting Services Division in the 1998 rule, but the definition was not removed from § 1773.2, Definitions. The definition of ''irregularity'' is replaced with the definition of ''fraud'' to conform to the changes made in Amendment No. 2 to GAGAS. The definition of the Private Companies Practice Section (PCPS) is removed. The peer review program conducted by this group was combined with the American Institute of Certified Public Accountants' (AICPA) quality review program in 1995, thus the reference to the PCPS is removed. The definition of REA is eliminated, as it is no longer necessary. The definition of Uniform System of Accounts for Electric Borrowers is revised to include the complete citation of the requirement to maintain a uniform system of accounts prescribed by RUS (7 CFR Part 1767, Accounting Requirements for RUS Electric Borrowers, Subpart B, Uniform System of Accounts). This rule amends § 1773.2, to reflect these changes.

Section 1773.1(d)(6) provides that a report described in the Statement on Auditing Standards (SAS) No. 35 does not meet the audit requirement of RUS. This SAS was superseded and retitled with the issuance of SAS No. 75.

In previous versions of part 1773 the sample reports, financial statements, and management letters were contained

in four appendices, two for electric borrowers and two for telecommunications borrowers. Beginning with this revision of part 1773, the appendices will no longer be codified in the Code of Federal Regulations. The appendices are attached to this notice for information only. The appendices are sample formats to be used as a reference guide to assist CPAs in completing their reports. The appendices will be available in new RUS Bulletin 1773–1, which will contain all of 7 CFR part 1773 and the appendices. Appendix A will contain the sample reports, financial statements and management letter for electric borrowers while Appendix B will contain similar samples for telecommunications borrowers. Publishing part 1773 in bulletin form will provide the RUS audit policy in a user-friendly format. A single copy of this publication will be provided to all RUS borrowers and certified public accountants approved to perform audits of RUS borrowers and will be available at http://www.usda.gov/rus/ruswide.htm.

List of Subjects in 7 CFR Part 1773

Accounting, Electric power, Loan programs—communications, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas, Telephone.

For the reasons set forth in the preamble, RUS amends 7 CFR Chapter XVII as follows:

PART 1773—POLICY ON AUDITS OF RUS BORROWERS

1. The authority citation for Part 1773 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

§§ 1773.1 through 1773.7, 1773.20, 1773.21, 1773.30, and 1773.38 [Amended]

2. For each section listed below remove the word, phrase, or date indicated in the remove column, and replace it with that indicated in the add column.

Section	Remove	Add
§ 1773.1(a), two occurrences § 1773.2, under definition for RUS.	telephone	telecommunications.
§ 1773.1(d); § 1773.3(c); §§ 1773.4 (f), (f)(1), and (g); §§ 1773.6 (a)(1) and (a)(4); §§ 1773.20, (a), (b), and (c)(6); § 1773.21, (a), and (b); § 1773.30(b); § 1773.38(b).	report on compliance, report on compliance and on internal controls over financial reporting.	report on compliance and on internal control over financial reporting.
§ 1773.8(a)(2) and (c)	19X1	20X1.
§ 1773.8(a)(2) and (c)	19X3	20X3.
§ 1773.6(a)(7)	irregularities	fraud.

3. Section 1773.1(c) and (d)(6) are revised to read as follows:

§ 1773.1 General.

* * * * *

(c) This complies with the 1994 revision of Government Auditing Standards, issued by the Comptroller General of the United States, United States General Accounting Office, including amendments dated May 13, 1999, and July 30, 1999.

(d) * * *

(6) A report, as described in Statement on Auditing Standards (SAS) No. 62, entitled ''Special Reports'', or in SAS No. 75, entitled ''Engagements to Apply Agreed-upon Procedures to Specified Elements, Accounts, or Items of a Financial Statement'', does not satisfy the RUS loan security instrument requirements.

* * * * *

4. Section 1773.2 is amended by:

A. Removing the definitions for ''BAD'', ''Irregularity'', ''PCPS'', and ''REA''

B. Revising the definition for ''Uniform System of Accounts'' and

C. Adding new definitions for ''AA–PARA'', ''Fraud'', and ''RUS Bulletin 1773–1''.

The new and revised definitions to read as follows:

§ 1773.2 Definitions.

* * * * *

AA–PARA means Assistant Administrator, Program Accounting and Regulatory Analysis.

* * * * *

Fraud has the same meaning prescribed in SAS No. 82 entitled ''Consideration of Fraud in Financial Statements''.

* * * * *

RUS Bulletin 1773–1, Policy on Audits of RUS Borrowers, is a publication prepared by RUS that contains the RUS regulation 7 CFR part 1773 and exhibits of sample audit reports, financial statements, and a management letter used in preparing audit of RUS borrowers. This bulletin is available from USDA, Rural Utilities Service, Program Development and Regulatory Analysis, 1400 Independence Ave., SW., Stop 1522, Washington, DC 20250, or available on the internet at http://www.usda.gov/rus/.

* * * * *

Uniform System of Accounts means, for telecommunications borrowers, the Uniform System of Accounts for Telecommunications Companies, prescribed by the Federal Communications Commission and published at 47 CFR Part 32, as supplemented by RUS pursuant to 7 CFR Part 1770, Accounting Requirements for RUS Telephone Borrowers, subpart B, Uniform System of Accounts, and for electric borrowers, as contained in 7 CFR Part 1767, Accounting Requirements for RUS Electric Borrowers, subpart B, Uniform System of Accounts.

5. Revise § 1773.3(b) to read as follows:

§ 1773.3 Annual audit.

* * * * *

(b) Each borrower must establish an annual as of audit date within twelve months of the date of receipt of the first advance of funds from grants and insured and guaranteed loans approved by RUS and RTB and must prepare financial statements as of the date established.

* * * * *

6. Revise § 1773.4(d) to read as follows:

§ 1773.4 Borrower responsibilities.

* * * * *

(d) *Audit engagement letter.* The borrower must enter into an audit engagement letter with the CPA that complies with § 1773.6.

* * * * *

§ 1773.5 [amended]

7. Amend § 1773.5 by:

A. Removing paragraphs (c)(5) and (d);

B. Redesignating paragraphs (c)(6) and (c)(7) to (c)(5) and (c)(6), respectively;

C. In paragraph (c)(4)(iii)(C) and redesignated (c)(5)(ii), revising the

reference ''42 months'' to read ''36 months'', and

D. In redesignated paragraph (c)(6)(ii), revising the reference from ''Director, Borrower Accounting Division'' to read ''Assistant Administrator, Program Accounting and Regulatory Analysis'.

8. Amend § 1773.6 by revising the title and paragraph (a) introductory text to read as follows:

§ 1773.6 Auditor communication.

(a) During the planning stages of a financial statement audit, GAGAS and AICPA standards require the auditor to communicate certain information regarding the nature and extent of testing and reporting on compliance with laws and regulations and internal control over financial reporting. The communication must include the nature of any additional testing of compliance and internal control required by laws and regulations or otherwise requested, and whether the auditors are planning to provide opinions on compliance with laws and regulations and internal control over financial reporting. This communication must take the form of an audit engagement letter prepared by the CPA and formally accepted by the board of directors or an audit committee representing the board of directors. The engagement letter must also encompass those items prescribed in SAS 83, entitled ''Establishing an Understanding with the Client''. It must also include the following:

* * * * *

9. In § 1773.7, paragraphs (b) and (c)(4) are revised to read as follows:

§ 1773.7 Audit standards.

* * * * *

(b) The audit must include such tests of the accounting records and such other auditing procedures that are sufficient to enable the CPA to express an opinion on the financial statements and to issue the required report on compliance and on internal control over financial reporting and the management letter.

(c) * * *

(4) After informing the borrower's management, if the scope limitation is not adequately resolved, the CPA should immediately contact the AA–PARA, RUS, U.S. Department of Agriculture, Washington, DC 20250–1523. The AA–PARA will endeavor to resolve the matter with the borrower.

10. In § 1773.8, paragraphs (a)(1) and the table following paragraph (c) are revised to read as follows:

§ 1773.8 Audit date.

(a) * * *

(1) A borrower may request a change in the as of audit date by writing to the AA–PARA at least 60 days prior to the newly requested as of audit date.

* * * * *

(c) * * *

Previously issued statements	Statements prepared as of new audit date
12/31/20X1; 12/31/20X0 (Statement need not be re-issued).	6/30/20X3; 6/30/20X2.

11. Amend § 1773.9 by revising the title and paragraphs (a), (b), and (c) introductory text, to read as follows:

§ 1773.9 Disclosure of fraud, illegal acts, and other noncompliance.

(a) In accordance with GAGAS, the auditor must design the audit to provide reasonable assurance of detecting fraud that is material to the financial statements and material misstatements resulting from direct and material illegal acts, and noncompliance with the provisions of contracts or grant agreements that could have a direct and material effect on financial statements amounts.

(b) If specific information comes to the auditor's attention that provides evidence concerning the existence of possible illegal acts that could have a material indirect effect on the financial statements or material noncompliance with the provisions of contracts or grant agreements that could have a material indirect effect on the financial statements, auditors should apply audit procedures specifically directed to ascertaining whether an illegal act or noncompliance with provisions of contract or grant agreements has occurred.

(c) Pursuant to the terms of its audit engagement letter with the borrower, the CPA must immediately report, in writing, all instances of fraud and all indications or instances of illegal acts, whether material or not, to:

* * * * *

12. Revise the title to subpart C to part 1773, to read as follows:

Subpart C—RUS Requirements for the Submission and Review of the Auditor's Report, Report on Compliance and on Internal Control Over Financial Reporting, and Management Letter

13. In § 1773.21, revise the title and add a new paragraph (e) to read as follows:

§ 1773.21 Borrower's review and submission of the auditor's report, report on compliance and on internal control over financial reporting, and management letter.

* * * * *

(e) All required submissions to RUS described in paragraphs (a) through (d) of this section should be sent to: Assistant Administrator, Program Accounting and Regulatory Analysis, Stop 1523, 1400 Independence Ave., SW, Washington, DC 20250–1523.

14. Section 1773.30 paragraph (a) is revised to read as follows:

§ 1773.30 General.

(a) The CPA must prepare the following (examples of which are set forth in RUS Bulletin 1773–1):

(1) An auditor's report;

(2) A report on compliance and on internal control over financial reporting; and

(3) A management letter.

* * * * *

15. Section 1773.31 is revised to read as follows:

§ 1773.31 Auditor's report.

The CPA must prepare a written report on comparative balance sheets, statements of revenue and patronage capital (or income and retained earnings, depending upon the structure of the borrower) and statements of cash flows. This report must be signed by the CPA, cover all statements presented, and refer to the separate report on compliance and on internal control over financial reporting issued in conjunction with the auditor's report. The auditor's report should also state that the report on compliance and on internal control over financial reporting is an integral part of a GAGAS audit, and in considering the results of the audit, this report should be read along with the auditor's report on the financial statements.

16. Amend § 1773.32 by revising the introductory text, paragraphs (a) through (d), and the ''note'' at the end of paragraph (f) to read as follows:

§ 1773.32 Report on compliance and on internal control over financial reporting.

As required by GAGAS, the CPA must prepare a written report describing the auditors testing of compliance with applicable laws, regulations, contracts, and grants, and on internal control over financial reporting and present the results of those tests. This report must be signed by the CPA and must include, as a minimum:

(a) The scope of the CPA's testing of compliance with laws and regulations and internal control over financial reporting including whether or not the

tests performed provided sufficient evidence to support an opinion on compliance or internal control over financial reporting and whether the CPA is providing such opinions;

(b) If conditions believed to be material weaknesses considered to be reportable conditions are disclosed, the report should identify the material weaknesses that have come to the CPA's attention;

(c) If no reportable instances of non-compliance and no reportable conditions were found, the CPA must issue a report as illustrated in RUS Bulletin 1773–1.

(d) If material instances of non-compliance and reportable conditions are identified, the CPA must issue a report as illustrated in RUS Bulletin 1773–1.

* * * * *

(f) * * *

We noted certain immaterial instances of noncompliance, which we have reported to the management of (borrower's name) in a separate letter dated (month, day, year).

* * * * *

17. Remove Appendices A through D to part 1773.

Dated: May 8, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

Appendix A to RUS Bulletin 1773–1—Sample Auditor's Report for an Electric Cooperative

Appendix A includes an example of an auditor's report, report on compliance and on internal control over financial reporting, financial statements and accompanying notes, and management letter for an electric distribution cooperative. The sample auditor's report is intended as a guide only and, while it is recommended that the format be followed, each auditor's report should be prepared to adequately cover the circumstances. To the extent possible, it should be used as a guide in preparing auditors' reports for other types of electric borrowers. For power supply borrowers and for distribution borrowers with production or transmission plant, the same general format should be followed. However, the Statement of Revenue and Patronage Capital must be expanded to show separate totals for operations expenses and maintenance expenses for each class of production plant and for transmission plant.

Exhibit 1—Sample Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center County Electric Energy Association, Inc.:

Independent Auditor's Report

We have audited the accompanying balance sheets of Center County Electric Energy Association, Inc. as of December 31, 20X1 and 20X0, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of Center County Electric Energy Association, Inc.'s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center County Electric Energy Association, Inc. as of December 31, 20X1 and 20X0, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued our report dated March 2, 2002, on our consideration of Center County Electric Energy Association, Inc.'s internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be read in conjunction with this report in considering the results of our audit.

Certified Public Accountants
March 2, 20X2

Exhibit 2—Sample Report on Compliance and on Internal Control Over Financial Reporting, the CPA Found No Reportable Instances of Noncompliance and No Material Weaknesses (No Reportable Conditions Identified)

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center County Electric Energy Association, Inc.:

We have audited the financial statements of Center County Electric Energy Association, Inc. as of and for the years ended December 31, 20X1 and 20X0, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Electric Energy Association, Inc.'s financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards. [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: However, we noted certain immaterial instances of noncompliance which we have reported to the management of Center County Electric Energy Association, Inc. in a separate letter dated March 2, 20X2.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Electric Energy Association, Inc.'s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses. [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: However, we noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Electric Energy Association, Inc. in a separate letter dated March 2, 20X2.]

This report is intended solely for the information and use of the audit committee, management, the Rural Utilities Service, and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants
March 2, 20X2

Exhibit 3—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA Found Reportable Instances of Noncompliance and Reportable Conditions Identified

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center County Electric Energy Association, Inc.:

We have audited the financial statements of Center County Electric Energy Association, Inc. as of and for the years ended December 31, 20X1 and 20X0, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Electric Energy Association, Inc.'s financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under Government Auditing Standards. [A description of the findings should be included in the report.] [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: We also noted certain immaterial instances of noncompliance which we have reported to the management of Center County Electric Energy Association, Inc. in a separate letter dated March 2, 20X2.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Electric Energy Association, Inc.'s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Center County Electric Energy Association, Inc.'s ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. [A description of the reportable conditions should be included in the report.]

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described above is a material weakness. [If conditions believed to be material weaknesses are disclosed, the last sentence should be deleted and instead the report should identify which of the reportable conditions described above are considered to be material weaknesses.] [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: We also noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Electric Energy Association, Inc. in a separate letter dated March 2, 2002.]

This report is intended solely for the information and use of the audit committee, management, the Rural Utilities Service, and supplemental lenders and is not intended to be and should not be used by anyone other that these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants
March 2, 2002

Exhibit 4—Sample Financial Statements

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0 ASSETS

[Notes 1 and 2]

	2001	2000
Utility Plant (Note 3):		
Electric Plant in Service	$48,382,000	$46,826,000
Construction Work in Progress	2,040,000	1,586,000
Total Utility Plant	50,422,000	48,412,000
Accumulated Provision for Depreciation	15,588,000	14,586,000
Net Utility Plant	34,834,000	33,826,000
Investments (Note 4):		
Investments in Associated Organizations	4,493,000	4,048,000
Other	1,040,000	1,410,000
Total Investments	5,533,000	5,458,000
Current Assets:		
Cash and Cash Equivalents	359,000	359,000
Short-Term Investments (Note 4)	8,000	8,000
Accounts Receivable, less allowance for doubtful accounts of $11,000 in 2001 and $10,000 in 2000	183,000	176,000
Materials and supplies	418,000	404,000
Prepayments	43,000	43,000
Total current assets	1,011,000	990,000
Deferred Charges (Note 5)	28,000	9,000
Total assets	$41,406,000	$40,283,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0

[Equities and Liabilities] [Note 1]

	20X1	20X0
Equities:		
Memberships	$60,000	$59,000
Patronage Capital (Note 6)	16,683,000	15,343,000
Other Equities (Note 7)	268,000	180,000
Net Unrealized Gain on Investments (Note 4)	15,000	8,000
Total Equities	17,026,000	15,590,000
Long-term liabilities:		
RUS Mortgage Notes, less current portion (Note 8)	16,956,000	17,532,000
CFC Mortgage Notes, less current portion (Note 8)	4,333,000	4,482,000
Post-retirement benefit obligation (Note 9)	1,004,000	841,000
Total Long-term liabilities	22,293,000	22,855,000
Current Liabilities:		
Line of credit note payable	425,000	300,000
Current portion of long-term debt (Note 8)	725,000	700,000
Accounts Payable—Purchased Power	245,000	203,000
Accounts Payable—Other	109,000	91,000
Consumer Deposits	408,000	413,000
Other Current and Accrued Liabilities	116,000	78,000
Total Current Liabilities	2,028,000	1,785,000
Deferred Credits (Note 10)	59,000	53,000
Total Equities and Liabilities	$41,406,000	$40,283,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. STATEMENTS OF REVENUE AND PATRONAGE CAPITAL

[For the years ended December 31, 20X1 and 20X0]

	20X1	20X0
Operating Revenues	$12,899,000	$12,042,000
Operating Expenses:		
Cost of Power	4,408,000	4,095,000
Distribution Operations	833,000	913,000
Distribution Maintenance	1,553,000	1,236,000
Consumer Accounts	575,000	547,000
Consumer Service and Information	288,000	306,000
Administrative and General	710,000	653,000
Depreciation and Amortization	2,163,000	2,098,000
Other	262,000	258,000
Total Operating Expenses	10,792,000	10,106,000
Operating Margins Before Interest Expense	2,107,000	1,936,000
Interest Expense	1,137,000	1,151,000
Operating Margins After Interest Expense	970,000	785,000
Nonoperating Margins:		
Interest Income	50,000	30,000
Other Nonoperating Income	6,000	6,000
Total Nonoperating Margins	56,000	36,000
Generation and Transmission Cooperative Capital Credits	361,000	283,000
Net Margins	1,387,000	1,104,000
Patronage Capital at Beginning of Year	15,343,000	14,345,000
Less: Retirements of Capital Credits	47,000	106,000
Patronage Capital at End of Year	$16,683,000	$15,343,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. STATEMENTS OF COMPREHENSIVE INCOME FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Net Margins	$1,387,000	$1,104,000
Other Comprehensive Income:		
Unrealized holding gains (losses) arising during the year	7,000	8,000
Comprehensive Income	$1,394,000	$1,112,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Cash Flows From Operating Activities:		
Cash Received from Consumers	$12,882,000	$12,017,000
Cash Paid to Suppliers and Employees	(8,335,000)	(7,784,000)
Interest Received	50,000	30,000
Interest Paid	(1,137,000)	(1,151,000)
Net Cash Provided by Operating Activities	3,460,000	3,112,000
Cash Flows From Investing Activities:		
Construction and Acquisition of Plant	(2,010,000)	(3,285,000)
Plant Removal Costs	(1,378,000)	(270,000)
Materials Salvaged from Retirements	217,000	197,000
(Increase) Decrease In:		
Materials Inventory	(14,000)	10,000
Deferred Charges-Preliminary Surveys and Investigations	(19,000)	24,000
Investments in Associated Organizations	(76,000)	(56,000)
Other Investments	370,000	323,000
Inventory Adjustment-Deferred Credit Decrease	(12,000)	(5,000)
Net Cash Used in Investing Activities	(2,922,000)	(3,062,000)
Cash Flows From Financing Activities:		
Retirements of Patronage Capital Credits	(47,000)	(106,000)
Retired Capital Credits-Gain	6,000	6,000
Donated Capital	82,000	31,000
RUS Loan Advances	.....	1,025,000
Payments on RUS Debt	(540,000)	(502,000)
Payments on CFC Debt	(160,000)	(149,000)
Line of Credit	125,000	(225,000)
Increase/(Decrease) In:		
Consumer Deposits	(5,000)	(1,000)
Memberships Issued	1,000	1,000
Net Cash Used in Financing Activities	(538,000)	80,000
Net Increase/(Decrease) in Cash	$0	$130,000
Cash—Beginning of Year	359,000	229,000
Cash—End of Year	$359,000	$359,000

RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES

	20X1	20X0
Net Margins	$1,387,000	$1,104,000
Adjustments to Reconcile Net Margins to Net Cash Provided by Operating Activities:		
Depreciation and Amortization	2,163,000	2,098,000
G&T and Other Capital Credits (Non-Cash)	(362,000)	(283,000)
Provision for Uncollectible Accounts Receivable	1,000	(3,000)
Accumulated Provision for Pensions and Benefits	163,000	150,000
(Increase)/Decrease In:		
Customer and Other Accounts Receivable	(8,000)	13,000
Current and Accrued Assets—Other	.....	1,000
Increase/(Decrease) In:		
Accounts Payable	60,000	26,000
Deferred Energy Prepayments	18,000	11,000

RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES—Continued

	20X1	20X0
Current and Accrued Liabilities—Other	38,000	(5,000)
Total Adjustments	2,073,000	2,008,000
Net Cash Provided by Operating Activities	$3,460,000	$3,112,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC ENERGY ASSOCIATION, INC. NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 20X1 AND 20X0

1. Summary of Significant Accounting Policies:

Include a brief description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, Disclosure of Accounting Policies.

Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, cash flow, and results of operations.

Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.

2. Assets Pledged:

Substantially all assets are pledged as security for long-term debt to RUS and NRUCFC.

3. Electric Plant and Depreciation Rates and Procedures:

Listed below are the major classes of the electric plant as of December 31, 20X1 and 20X0:

	20X1	20X0
Intangible Plant	$11,000	$11,000
Distribution Plant	45,753,000	44,370,000
General Plant	2,618,000	2,445,000
Electric Plant in Service	$48,382,000	$46,826,000
Construction Work in Progress	2,040,000	1,586,000
Total Utility Plant	$50,422,000	$48,412,000

Provision has been made for depreciation of distribution plant at a straight-line composite rate of 3.00 percent per annum. General Plant depreciation rates have been applied on a straight-line basis as follows:

Structures and Improvements	2.5%
Office Furniture and Equipment	10.0%
Transportation Equipment	14.0%
Power Operated Equipment	12.0%
Other General Plant	4.0%
Communications Equipment	6.0%

4. Investments in Associated Organizations:

Investments in associated organizations consisted of the following at December 20X1 and 20X0:

	20X1	20X0
National Rural Utilities Cooperative Finance Corporation:		
Membership Fee	$1,000	$1,000
Capital Term Certificates	839,000	839,000
Patronage Capital	288,000	276,000
Fall River Power Cooperative	3,019,000	2,898,000
Other	346,000	34,000
	$4,493,000	$ 4,048,000

Center County Electric Energy Association, Inc. has adopted SFAS No. 115, ''Accounting for Certain Investments in Debt and Equity Securities.'' In accordance with SFAS No. 115, the Association has classified all the Other Investments as available-for-sale. Available-for-sale investments are stated at fair value with unrealized gains and losses included in members' equities. The cost of investments sold is based on the specific identification method.

Long-term and short-term investments classified as available-for-sale were as follows at December 31, 20X1 and 20X0:

Description	20X1			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
U.S. Treasury notes, bills and bonds	$222,000	$14,000	$1,000	235,000
Other U.S. Government agency securities	380,000	6,000	4,000	382,000

Description	20X1			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
Other debt securities	431,000	3,000	3,000	431,000
	$1,033,000	$23,000	$8,000	$1,048,000

Description	20X0			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
U.S. Treasury notes, bills and bonds	$397,000	$5,000	$1,000	$401,000
Other U.S. Government agency securities	410,000	2,000	.....	412,000
Other debt securities	604,000	1,000	.....	605,000
	$1,411,000	$8,000	$1,000	$1,418,000

At December 31, 20X1, maturities of investments classified as available-for-sale were as follows:

	Amortized cost	Fair value
Less than One Year	$8,000	$8,000
One through Five Years	958,000	961,000
After Five Years	67,000	79,000
Total	$1,033,000	$1,048,000

5. Deferred Charges:

Following is a summary of amounts recorded as deferred charges as of December 31, 20X1 and 20X0:

	20X1	20X0
Preliminary Surveys and Investigations	$28,000	$9,000

6. Patronage Capital:

At December 31, 20X1 and 20X0, patronage capital consisted of:

	20X1	20X0
Assignable	$1,387,000	$1,104,000
Assigned to date	15,955,000	14,851,000
	$17,342,000	$15,955,000
Less: Retirements to Date	659,000	612,000
	$16,683,000	$15,343,000

Under the provisions of the Mortgage Agreement, until the equities and margins equal or exceed thirty percent of the total assets of the cooperative, the return to patrons of contributed capital is generally limited to twenty-five percent of the patronage capital or margins received by the cooperative in the prior calendar year. The equities and margins of the cooperative represent 41 percent of the total assets at balance sheet date. Capital credit retirements in the amount of $47,000 were paid in 20X1.

7. Other Equities:

At December 31, 20X1 and 20X0, other equities consisted of:

	20X1	20X0
Retired Capital Credits-Gain	$181,000	$175,000
Donated Capital	87,000	5,000
	$268,000	$180,000

8. Mortgage Notes:

Long-term debt is primarily represented by mortgage notes payable to the United States of America and to the National Rural Utilities Cooperative Finance Corporation. Following is a summary of outstanding long-term debt as of December 31, 20X1 and 20X0:

	20X1	20X0
RUS, 2% Notes due March 31, 2007	$544,000	$562,000
RUS, 5% Notes due December 31, 2033	16,971,000	17,510,000
	$17,515,000	$18,072,000
Less: Current Maturities	559,000	540,000
	$16,956,000	$17,532,000

	20X1	20X0
CFC, 5.75% Notes due March 31, 2013	$166,000	$171,000
CFC, 6.95% Notes due July 31, 2018	1,453,000	1,499,000
CFC, 7.00% Notes due September 30, 2009	443,000	457,000
CFC, 6.40% Notes due October 31, 2026	2,437,000	2,515,000
	$4,499,000	$4,642,000
Less: Current Maturities	166,000	160,000
	$4,333,000	$4,482,000

Unadvanced loan funds of $286,000 and $2,500,000 are available to the cooperative on loan commitments from RUS and CFC as of December 31, 20X1. As of December 31, 20X1, annual maturities of long-term debt outstanding for the next five years are as follows:

	RUS	CFC	Total
20X2	$559,000	$166,000	$725,000
20X3	563,000	167,000	730,000
20X4	565,000	167,000	732,000
20X5	568,000	168,000	736,000
20X6	570,000	169,000	739,000

9. Employee Benefits:

Substantially all of the employees of the Association are covered by the ABC Retirement and Security Program, a defined benefit pension plan.

In addition to pension contributions the Association provides health care benefits for substantially all retired employees and dependents until they reach age 65.

The following illustrates the pension and postretirement benefits plans for the year ended December 31, 20X1 and 20X0.

	Pension benefits		Other benefits	
	20X1	20X0	20X1	20X0
Benefit obligation at December 31	$1,762,000	$2,080,000	$1,899,000	$1,800,000
Fair value of plan assets at December 31	715,000	513,000	0	0
Funded status	$(1,047,000)	$(1,567,000)	$(1,899,000)	$(1,800,000)
Prepaid (Accrued) benefit cost	$(243,000)	$(365,000)	$(1,004,000)	$(841,000)
Weighted-average assumptions as of December 31:				
Discount rate	6.75%	5.50%	8.00%	8.00%
Expected return on plan assets	6.50%	6.00%		
Rate of compensation increase	5.00%	5.50%	6.00%	6.00%

For measurement purposes, a 10 percent annual rate of increase in the per capita cost of covered health benefits was assumed for 20X2. The rate was assumed to decrease gradually to 5 percent and remain at that level thereafter.

	Pension benefits		Other benefits	
	20X1	20X0	20X1	20X0
Benefit cost	$253,000	$232,000	$220,000	$220,000
Employer Contribution	160,000	225,000	57,000	55,000
Benefits Paid	(7,000)	(48,000)	(57,000)	(55,000)

10. Deferred Credits:

Following is a summary of the amounts recorded as deferred credits as of December 31, 20X1 and 20X0:

	20X1	20X0
Customer Energy Prepayments	$33,000	$15,000
Inventory Adjustment	26,000	38,000
	$59,000	$53,000

11. Litigation:

The association is a defendant in an action in which the plaintiff claims damages totaling $200,000 for personal injuries sustained. The action has been dismissed by the District Court, but is on appeal before the State Supreme Court. Management is of the opinion that no liability will be incurred by the association as a result of this action.

12. Commitments:

Under its wholesale power agreement, the association is committed to purchase its electric power and energy requirements from Fall River Power Cooperative, Inc., until December 31, 20X7. The rates paid for such purchases are subject to review annually.

Exhibit 5—Illustrative Independent Auditor's Management Letter for Electric Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Electric Borrowers

March 2, 20X2
Board of Directors
Center County Electric Energy Association, Inc.
[City, State]

We have audited the financial statements of Center County Electric Energy Association, Inc. for the year ended December 31, 20X1, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR Part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Electric Energy Association, Inc. for the year ended December 31, 20X1, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

Section 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in § 1773.33(e)(1), related party transactions, depreciation rates, a schedule of deferred debits and credits, and a schedule of investments upon which we express an opinion. In addition, our audit of the financial statements also included the procedures specified in § 1773.38 through 1773.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports other than our independent auditors' report and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 2002 or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by § 1773.33 are presented below.

Comments on Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding Center County Electric Energy Association, Inc.'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];
—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and
—The materials control [list other comments].

Comments on Compliance With Specific RUS Loan and Security Instrument Provisions

At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others for the year ended December 31, 20X1:

1. Obtained and read a borrower-prepared schedule of new written contracts entered into during the year for the operation or maintenance of its property, or for the use of its property by others as defined in § 1773.33(e)(1)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 7 or Form 12 to the RUS:

1. Agreed amounts reported in Form 7 or Form 12 to Center County Electric Energy Association, Inc.'s records.

The results of our tests indicate that, with respect to the items tested, Center County Electric Energy Association, Inc. complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others as defined in § 1773.33(e)(1)(i) [list all exceptions]; and
—The borrower has submitted its Form 7 or Form 12 to the RUS and the Form 7 or Form 12, Financial and Statistical Report, as of December 31, 20X1, represented by the borrower as having been submitted to RUS is in agreement with the Center County Electric Energy Association, Inc.'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of Center County Electric Energy Association, Inc., nothing came to our attention that caused us to believe that Center County Electric Energy Association, Inc. failed to comply with respect to:

—The reconciliation of continuing property records to the controlling general ledger plant accounts addressed at § 1773.33(c)(1) [list all exceptions];
—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at § 1773.33(c)(2) [list all exceptions];
—The retirement of plant addressed at § 1773.33(c)(3) and (4) [list all exceptions];
—Approval of the sale, lease, or transfer of capital assets and disposition of proceeds for the sale or lease of plant, material, or scrap addressed at § 1773.33(c)(5) [list all exceptions];
—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 2001, in the financial statements referenced in the first paragraph of this report addressed at § 1773.33(f) [list all exceptions];

—The depreciation rates addressed at § 1773.33(g) [list all exceptions];
—The detailed schedule of deferred debits and deferred credits; and
—The detailed schedule of investments.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of deferred debits and deferred credits required by § 1773.33(h) and the detailed schedule of investments required by § 1773.33(i), and provided below, are presented for purposes of additional analysis and are not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of deferred debits and deferred credits would be included here. The total amount of deferred debits and deferred credits as reported in the schedule must agree with the totals reported on the Balance Sheet under the specific captions of ''Deferred Debits'' and ''Deferred Credits''. Those items that have been approved, in writing, by RUS should be clearly indicated.]

[The detailed schedule of investments would be included here. The total of the investment in each company reported must agree with the detail investment subsidiary account(s).]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

Appendix B to RUS Bulletin 1773–1—Sample Auditor's Report for a Class A or B Commercial Telecommunications Company

Appendix B includes an example of a short-form auditor's report, report on compliance and on internal control over financial reporting, financial statements and accompanying notes for a commercial telecommunications company. The sample auditor's report is intended as a guide only and, while it is recommended that the format be followed, each auditor's report should be prepared to adequately cover the circumstances. To the extent possible, it should be used as a guide in preparing auditors' reports for other types of telecommunications borrowers.

Exhibit 1—Sample Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105
The Board of Directors, Center County Telecommunications Systems, Inc.:
Independent Auditor's Report

We have audited the accompanying balance sheets of Center County Telecommunications Systems, Inc., as of December 31, 20X1 and 20X0, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of Center County Telecommunications Systems Inc.'s management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our audit.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center County Telecommunications Systems, Inc. as of December 31, 20X1 and 20X0, and the results of its operations and its cash flows for the years then ended in conformity with general accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued our report dated March 2, 20X2, on our consideration of Center County Telecommunications Systems, Inc.'s internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be read in conjunction with this report in considering the results of our audit.

Certified Public Accountants
March 2, 20X2

Exhibit 2—Sample Report on Compliance and on Internal Control Over Financial Reporting, the CPA Found No Reportable Instances of Noncompliance and No Material Weaknesses (No Reportable Conditions Identified)

Certified Public Accountants, 1600 Main Street, City, State 24105
The Board of Directors, Center County Telecommunications Systems, Inc.:

We have audited the financial statements of Center County Telecommunications Systems, Inc. as of and for the years ended December 31, 20X1 and 20X0, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Telecommunications Systems, Inc.'s financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards. [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: However, we noted certain immaterial instances of noncompliance which we have reported to the management of Center County Telecommunications Systems, Inc. in a separate letter dated March 2, 20X1.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Telecommunications Systems, Inc.'s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses. [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: However, we noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Telecommunications Systems Inc., in a separate letter dated March 2, 20X2.]

This report is intended solely for the information and use of the audit committee, management, the Rural Utilities Service, and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants
March 2, 20X2

Exhibit 3—Sample Report on Compliance and on Internal Control Over Financial Reporting, the CPA Found Reportable Instances of Noncompliance and Reportable Conditions Were Identified

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center County Telecommunications Systems Inc.

We have audited the financial statements of Center County Telecommunications Systems Inc., as of and for the years ended December 31, 20X1 and 20X0, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Telecommunications Systems' financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under Government Auditing Standards. [A description of the findings should be included in the report.] [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: We also noted certain immaterial instances of noncompliance which we have reported to the management of Center County Telecommunications Systems, Inc. in a separate letter dated March 2, 20X2.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Telecommunications Systems, Inc.'s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Center County Telecommunications Systems, Inc.'s ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. [A description of the findings pertaining to reportable conditions should be included in the report.]

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described above is a material weakness. [If conditions believed to be material weaknesses are disclosed, the last sentence should be deleted and instead the report should identify which of the reportable conditions described above are considered to be material weaknesses.] [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: We also noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Telecommunications Systems, Inc., in a separate letter dated March 2, 20X2.]

This report is intended solely for the information and use of the audit committee, management, the Rural Utilities Service, and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants
March 2, 20X2

Exhibit 4—Sample Financial Statement

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0 ASSETS

[Notes 1 and 2]

	20X1	20X0
Current Assets:		
Cash—Construction Funds	$500	$300
Cash—General Funds	60,000	32,000
Temporary Investments	26,000	24,000
Accounts Receivable, less accumulated provision of $35,000 in 20X1 and $34,000 in 20X0.	740,000	667,000
Materials and Supplies	250,000	210,000
Prepayments (Note 3)	50,000	31,700
Other Current Assets	25,000	30,000
Total Current Assets	1,151,500	995,000
Noncurrent Assets:		
Investments (Note 4):		
Marketable Securities	741,500	705,000
Nonregulated	1,550,000	1,450,000
Other deferred charges	39,000	12,000
Total Noncurrent Assets	2,330,500	2,167,000
Property, Plant and Equipment:		
Telecommunications Plant in Service (Note 5)	22,800,000	20,100,000
Telecommunications Plant Under Construction	1,200,000	1,100,000
	24,000,000	21,200,000
Accumulated Provision for Depreciation	8,500,000	7,200,000
Total Property, Plant and Equipment	15,500,000	14,000,000

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0 ASSETS—Continued

[Notes 1 and 2]

	20X1	20X0
Total Assets	$18,982,000	$17,162,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. BALANCE SHEETS DECEMBER 31, 20X1 AND 20X0 LIABILITIES AND RETAINED EARNINGS

[Note 2]

	20X1	20X0
Current Liabilities:		
Accounts Payable	$320,000	$324,000
Customer Deposits	33,000	30,000
Current portion of long-term debt	579,000	449,000
Accrued Taxes	500	49,800
Other Current Liabilities	22,000	15,000
Total Current Liabilities	954,500	867,800
Long-term debt:		
RUS Mortgage Notes, less current portion (Note 6)	8,900,000	8,100,000
Accrued Postretirement benefits (Note 7)	664,000	503,000
Total Long-term liabilities	9,564,000	8,603,000
Other Liabilities and Deferred Credits:		
Deferred Income Taxes (Note 8)	190,000	176,000
Other	110,000	98,000
Total Other Liabilities and Deferred Credits	300,000	274,000
Stockholder's Equities:		
Capital Stock—Common $100 par value—5,000 shares authorized; 3,500 outstanding 20X1 and 20X0	350,000	350,000
Additional Paid-in Capital	250,000	250,000
Retained Earnings	7,560,500	6,814,800
Accumulated Other Comprehensive Income (Loss)	3,000	2,400
Total Stockholder's Equities	8,163,500	7,417,200
Total Equities and Liabilities	$18,982,000	$17,162,000

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Operating Revenues:		
Local Network Services	$1,481,000	$924,000
Network Access Services	3,706,700	3,023,800
Billing and Collection Services	306,000	279,000
Miscellaneous	206,000	139,000
Less: Uncollectible Revenues	(26,000)	(22,000)
Total Operating Revenues	5,673,700	4,343,800
Operating Expenses:		
Plant Specific Operations	976,000	676,000
Plant Nonspecific Operations	222,000	174,000
Depreciation and Amortization	1,341,000	855,000
Customer Operations	737,000	544,000
Corporate Operations	1,034,000	809,000
Other Taxes	26,000	36,000
Total Operating Expenses	4,336,000	3,094,000
Operating Income	1,337,700	1,249,800
Other Income (Expense):		

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0—Continued

	20X1	20X0
Interest and dividend income	238,000	236,000
Interest expense	(489,000)	(429,000)
Interest during construction	53,000	28,000
Net Other Income and Expenses	(198,000)	(165,000)
Income Before Income Taxes	1,139,700	1,084,800
Income Taxes	126,000	81,000
Net Income Before Nonregulated Income	1,013,700	1,003,800
Nonregulated Income	33,000	27,000
Net Income for the Period	1,046,700	1,030,800
Retained Earnings at Beginning of Year	6,814,800	6,053,000
Dividends Paid	301,000	269,000
Retained Earnings at End of Year	$7,560,500	$6,814,800

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF COMPREHENSIVE INCOME FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Net Income	$1,046,700	$1,030,800
Other Comprehensive Income:		
Unrealized holding gains (losses) arising during the year	600	1,500
Comprehensive Income	$1,047,300	$1,032,30

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0

	20X1	20X0
Cash Flows From Operating Activities:		
Cash Received from Consumers	$5,382,000	$4,276,000
Cash Paid to Suppliers and Employees	(2,580,400)	(2,026,200)
Interest Received	238,000	236,000
Interest Paid	(489,000)	(429,000)
Taxes Paid	(141,500)	(94,000)
Net Cash Provided by Operating Activities	2,409,100	1,962,800
Cash Flows From Investing Activities:		
Construction and Acquisition of Plant	(2,612,000)	(2,523,000)
Plant Removal Costs	(229,000)	(82,000)
(Increase) Decrease In:		
Materials Inventory	(40,000)	(58,000)
Investments in Marketable Securities	(37,900)	(34,500)
Other Investments	(100,000)	(135,000)
Deferred Charges	(27,000)	23,000
Nonregulated Income	33,000	27,000
Net Cash Used in Investing Activities	(3,012,900)	(2,782,500)
Cash Flows From Financing Activities:		
Dividends Paid	(301,000)	(269,000)
Debt Proceeds	1,379,000	1,158,000
Payments on Long-Term Debt	(449,000)	(444,000)
Increase/(Decrease) In:		
Consumer Deposits and Advance Payments	3,000	13,000
Net Cash Provided by Financing Activities	632,000	458,000
Net Increase/(Decrease) in Cash	28,200	(361,700)
Cash—Beginning of Year	32,300	394,000

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 20X1 AND 20X0—Continued

	20X1	20X0
Cash—End of Year	60,500	32,300

RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES

	20X1	20X0
Net Margins	$1,046,700	$1,030,800
Less: Nonregulated Income	33,000	27,000
Net Income from Regulated Operations	1,013,700	1,003,800
Adjustments to Reconcile Net Margins to Net Cash Provided by Operating Activities:		
Depreciation and Amortization	1,341,000	855,000
Provision for Uncollectible Accounts Receivable	1,000	1,000
Accumulated Provision for Pensions and Benefits	161,000	133,000
(Increase)/Decrease In:		
Customer and Other Accounts Receivable	(74,000)	(69,000)
Current and Accrued Assets—Other	5,000	15,000
Prepayments	(18,300)	15,000
Increase/(Decrease) In:		
Accounts Payable	(4,000)	29,000
Accrued Taxes	(49,300)	(13,000)
Other Current and Accrued Liabilities	7,000	(2,000)
Deferred Credits	26,000	(5,000)
Total Adjustments	959,000	1,395,400
Net Cash Provided by Operating Activities	$2,409,100	$1,962,800

(The accompanying notes are an integral part of these statements.)

CENTER COUNTY TELECOMMUNICATIONS SYSTEMS, INC. NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 20X1 AND 20X0

1. Summary of Significant Accounting Policies:

Include a brief description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, Disclosure of Accounting Policies.

Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, cash flow, and results of operations.

Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.

2. Assets Pledged:

Substantially all assets are pledged as security for long-term debt to RUS.

3. Prepaid Expenses:

Following is a summary of the amounts recorded as prepaid items as of December 31, 20X1 and 20X0:

	20X1	20X0
Prepaid Taxes	$10,000	$10,000
Prepaid Insurance	3,000	1,700
Prepaid Rent	37,000	20,000
	$50,000	$31,700

4. Investments:

Marketable Debt and Equity Securities:

Center County Telecommunications System, Inc., has adopted SFAS No. 115, ''Accounting for Certain Investments in Debt and Equity Securities.'' In accordance with SFAS No. 115, the company has classified all the Other Investments as available-for-sale. Available-for-sale investments are stated at fair value with unrealized gains and losses included in stockholder's equities. The cost of investments sold is based on the specific identification method.

The cost and fair values of marketable securities available-for-sale at December 31, 20X1 and 20X0 were:

Description	20X1			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
U.S. Government Treasury securities	$62,500	$2,900	$900	$64,500
Certificate of Deposit	420,000	.....	.....	420,000
Debt Securities	280,000	6,000	3,000	283,000

Description	20X1			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
	$762,500	$8,900	$3,900	$767,500

Description	20X0			
	Amortized cost	Gross unrealized gain	Gross unrealized loss	Fair value
U.S. Government Treasury securities	$68,000	$1,200	$200	$69,000
Certificate of Deposit	408,000	.....	.....	408,000
Debt Securities	249,000	5,000	2,000	252,000
	$725,000	$6,200	$2,200	$729,000

At December 31, 20X1, maturities of investments classified as available-for-sale were as follows:

	Amortized cost	Fair value
Less than One Year	$25,000	$26,000
One through Five Years	681,000	684,000
After Five Years	56,500	57,500
Total	$762,500	$767,500

As of December 31, 20X1 and 20X0, the amount of unrealized gains on available for sale securities included in accumulated other comprehensive income is shown net of deferred income taxes of $2,000 and $1,600, respectively.

Nonregulated Investments:

Investments in nonregulated activities consist of the following:

	20X1	20X0
Customer Premises Equipment	$493,000	$500,000
CATV equipment	650,000	678,000
Cellular facilities	1,329,000	1,047,000
Other	28,000	35,000
Total Nonregulated Investments	2,500,000	2,260,000
Less: Accumulated Depreciation	950,000	810,000
	$1,550,000	$1,450,000

Nonregulated property is stated at cost. The company provides for depreciation on a straight-line basis at annual rates which will amortize the depreciable property over its estimated useful life.

Following is a summary of net income from nonregulated investments for the year ending December 31, 20X1 and 20X0:

	20X1	20X0
Income	$400,000	$268,000
Expenses	367,000	241,000
	$33,000	$27,000

Income tax expense related to these activities totaled $15,000 in 20X1 and $12,000 in 20X0.

5. Investment in Telecommunications Plant:

Telecommunications Plant in Service and under construction is stated at cost. Listed below are the major classes of the telecommunications plant as of December 31, 20X1 and 20X0:

	20X1	20X0
Land	$185,000	$185,000
Buildings	1,385,000	1,435,000
Central Office Equipment	9,929,000	8,379,000
Outside Plant	10,226,000	9,120,000
Furniture and Office Equipment	352,000	256,000
Vehicles and Work Equipment	723,000	725,000
	$22,800,000	$20,100,000

The company provides for depreciation on a straight-line basis at annual rates which will amortize the depreciable property over its estimated useful life. Such provision, as a percentage of the average balance of telecommunications plant in service was 7.2 percent in 20X1 and 7.1 percent in 20X0.

6. Mortgage Notes:

Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt as of December 31, 20X1 and 20X0:

	20X1	20X0
2% Notes due September 30, 20X8	$2,495,000	$2,373,000
5% Notes due March 31, 20X12	6,984,000	6,176,000
	9,479,000	8,549,000
Less: Current Maturities	579,000	449,000
	$8,900,000	$8,100,000

As of December 31, 20X1, there were no unadvanced funds.

Principal and interest installments on the above notes are due quarterly in equal amounts of $254,000. As of December 31, 20X1, annual maturities of long-term debt outstanding for the next five years are as follows:

20X2	$579,000
20X3	600,000
20X4	612,000
20X5	624,000
20X6	637,000

The long-term debt agreements contain restrictions on the payment of dividends or redemption of capital stock. The terms of the Mortgage Agreement require the maintenance of defined amounts in member's equity and working capital after payment of dividends.

7. Employee Benefits:

Substantially all of the employees of the Company are covered by the ABC Retirement and Security Program, a multiemployer plan.

In addition to pension contributions the Company provides health care benefits for substantially all retired employees and dependents until they reach age 65.

The following illustrates the pension and postretirement benefits plans for the year ended December 31, 20X1 and 20X0.

	Pension benefits		Other benefits	
	20X1	20X0	20X1	20X0
Change in benefit obligation:				
Benefit obligation beginning of year	$1,871,000	$1,841,000	$1,552,000	$1,464,000
Service Cost	115,000	145,000	39,000	39,000
Interest Cost	95,000	86,000	104,000	104,000
Actuarial Gain	(490,000)	(157,000)		
Benefits Paid	(6,000)	(43,000)	(58,000)	(56,000)
Benefit obligation at end of year	$1,585,000	$1,872,000	$1,637,000	$1,551,000
Change in plan assets:				
Fair value of plan assets beginning of year	$461,000	$281,000	$0	$0
Actual return on plan assets	45,000	21,000		
Employer Contribution	144,000	203,000	58,000	56,000
Benefits Paid	(6,000)	(43,000)	(58,000)	(56,000)
Fair value of plan assets at end of year	$644,000	$462,000	$0	$0
Funded status	$(941,000)	$(1,410,000)	$(1,637,000)	$(1,551,000)
Unrecognized net actuarial loss (gain)	(97,000)	428,000	.....	.....
Unrecognized prior service cost	627,000	654,000	.....	.....
Unrecognized transition obligation	.....	.....	973,000	1,048,000
Prepaid (Accrued) benefit cost	$(411,000)	$(328,000)	$(664,000)	$(503,000)
Weighted-average assumptions as of December 31:				
Discount rate	6.75%	5.50%	8.00%	8.00%
Expected return on plan assets	6.50%	6.00%	.....	.....
Rate of compensation increase	5.00%	5.50%	6.00%	6.00%
Components of net periodic benefit cost:				
Service cost	$115,000	$145,000	$39,000	$39,000
Interest cost	95,000	86,000	104,000	104,000
Expected return on plan assets	(33,000)	(22,000)	.....	.....
Amortization of prior service cost	27,000	27,000	.....	.....
Amortization of transition obligation	.....	.....	75,000	75,000
Recognized net actuarial loss	24,000	(28,000)	.....	.....
Net periodic benefit cost	$228,000	$208,000	$218,000	$218,000

8. Income Taxes and Deferred Income Taxes:

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amount of the company's assets and liabilities for financial reporting basis and the amounts used for income tax purposes.

Deferred federal and state tax assets and liabilities in the accompanying balance sheet include the following:

	December 31,	
	20X1	20X0
Deferred Tax Liabilities:		
Federal	$192,000	$152,000
State	31,000	25,000
Total Deferred Tax Liabilities:	223,000	177,000
Deferred Tax Assets:		
Federal	28,000	700
State	5,000	300
Total Deferred Tax Assets	33,000	1,000
Net Deferred Tax Liability	$190,000	$176,000
Current Portion	$0	$0
Long-term portion	190,000	176,000
Net Deferred Tax Liability	$190,000	$176,000

Income taxes reflected in the Statement of Income and Retained Earnings include:

	December 31,	
	20X1	20X0
Federal income taxes:		
Current tax expense	$103,000	$71,000
Deferred tax expense	10,000	5,000
State income taxes:		
Current tax expense	12,000	6,000
Deferred tax expense	1,000	(1,000)
Total income tax expense	$126,000	$81,000

9. Commitments:

The company has executed contracts for construction programs for approximately $1,600,000 at December 31, 20X1. The amount unpaid against these commitments at December 31, 20X1 is $1,100,000.

Exhibit 5–Illustrative Independent Auditor's Management Letter for Telecommunications Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with Section 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Telecommunications Borrowers

March 2, 20X2
Board of Directors
Center County Telecommunications Systems, Inc.
[City, State]

We have audited the financial statements of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1, and have issued our report thereon dated March 2, 20X2. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR Part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

Section 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in § 1773.33(e)(2), and related party transactions and investments. In addition, our audit of the financial statements also included the procedures specified in § 1773.38 through 1773.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports other than our independent auditors' report, and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 20X2 or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by § 1773.33 are presented below.

Comments on Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding Center County Telecommunications Systems, Inc.'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];
—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and
—The materials control [list other comments].

Comments on Compliance With Specific RUS Loan and Security Instrument Provisions

At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract, agreement or lease between the borrower and an affiliate of Center County Telecommunications Systems, Inc. for the year ended December 31, 20X1:

1. Obtained and read a borrower-prepared schedule of new written contracts, agreements or leases entered into during the year between the borrower and an affiliate as defined in § 1773.33(e)(2)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 479 to the RUS:

1. Agreed amounts reported in Form 479 to Center County Telecommunications Systems, Inc.'s records.

The results of our tests indicate that, with respect to the items tested, Center County Telecommunications Systems, Inc. complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract agreement or lease with an affiliate as defined in § 1773.33(e)(2)(i) [list all exceptions]; and
—The borrower has submitted its Form 479 to the RUS and the Form 479, Financial and Statistical Report, as of December 31, 20X1, represented by the borrower as having been submitted to RUS is in agreement with the Center County Telecommunications Systems, Inc.'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of Center County Telecommunications Systems, Inc., nothing came to our attention that caused us to believe that Center County Telecommunications Systems, Inc. failed to comply with respect to:

—The reconciliation of continuing property records to the controlling general ledger plant accounts addressed at § 1773.33(c)(1) [list all exceptions];
—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at § 1773.33(c)(2) [list all exceptions];
—The retirement of plant addressed at § 1773.33(c)(3) and (4) [list all exceptions];
—The approval of the sale, lease, or transfer of capital assets and disposition of proceeds for the sale of lease of plant, material, or scrap addressed at § 1773.33(c)(5) [list all exceptions];
—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 20X1, in the financial statements referenced in the first paragraph of this report addressed at § 1773.33(f) [list all exceptions]; and
—The detailed schedule of investments.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of investments required by § 1773.33(i) and provided below is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of investments would be included here. The total of the investment in each company reported must agree with the detail investment subsidiary account(s).]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

[FR Doc. 01–12127 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

RIN 1904–AB06

Energy Efficiency Program for Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air Conditioning and Water Heating Equipment

AGENCY: Department of Energy (DOE).

ACTION: Final rule; completion of regulatory review.

SUMMARY: On January 12, 2001, DOE published in the **Federal Register** the final rule entitled ''Energy Efficiency Program for Commercial and Industrial Equipment: Efficiency Standards for Commercial Heating, Air Conditioning and Water Heating Equipment'' (66 FR 3336). In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), DOE temporarily delayed for 60 days the effective date of that rule (66 FR 8745, February 2, 2001). DOE has now completed its review of that regulation, and does not intend to initiate any further rulemaking action to modify its provisions.

DATES: The effective date of the rule amending 10 CFR part 431 published at 66 FR 3336, January 12, 2001, and delayed at 66 FR 8745, February 2, 2001, is confirmed as April 13, 2001.

FOR FURTHER INFORMATION CONTACT: Jill Holtzman, Office of General Counsel, (202) 586–3410, *jill.holtzman@hq.doe.gov* or Lawrence R. Oliver, Office of the General Counsel, (202) 586–9521, *lawrence.oliver@hq.doe.gov* or Cyrus Nasseri, Office of Energy Efficiency and Renewable Energy, (202) 586–9138, *cyrus.nasseri@ee.doe.gov.*

Issued in Washington, DC on May 14, 2001.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 01–12686 Filed 5–18–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–33–AD; Amendment 39–12234; AD 2001–10–08]

RIN 2120–AA64

Airworthiness Directives; Rolladen Schneider Flugzeugbau GmbH Models LS 3, LS 4, and LS 6c Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Rolladen Schneider Flugzeugbau GmbH (Rolladen Schneider) Models LS 3, LS 4, and LS 6c sailplanes. This AD requires you to inspect the airbrake levers in the wing for lower end corrosion and for play in flight direction when fully extended and retracting under load; replace the bearings if there is jamming under load or if corrosion is found; and adjust the lower lever member (only for the Model LS 3). This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct corrosion damage to the airbrake levers and bearings caused by collection of water in the airbrake boxes, not detected during postflight checks. This condition could result in the airbrakes locking in the extended position and a consequent off-field or short landing.

DATES: This AD becomes effective on July 13, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of July 13, 2001.

ADDRESSES: You may get the service information referenced in this AD from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany; phone: ++ 49 6103 204126; facsimile: ++ 49 6103 45526. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–33–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified FAA that an unsafe condition may exist on all Rolladen Schneider Models LS 3, LS 4, and LS 6c sailplanes. The LBA reports one occurrence of corroded bearings on the lower ends of airbrake levers found on the above-referenced sailplanes. The damage was possibly the result of improper postflight checks. It has been reported that in some cases, the corrosion, occurring over a long time, could cause bearing failure and consequent locking of airbrakes in the extended position.

What are the consequences if the condition is not corrected? If the airbrakes lock in the extended position, inadvertent off-field or short landing conditions might occur.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Rolladen Schneider Models LS 3, LS 4, and LS 6c sailplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 14, 2001 (66 FR 10230). The NPRM proposed to require you to inspect the airbrake levers in the wing for lower end corrosion and for play in flight direction when fully extended; inspect for retraction under load; replace the bearings if there is jamming under load or if corrosion is found; and adjust the lower lever member (only for the Model LS 3).

Was the public invited to comment? Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

FAA's Determination

What is FAA's final determination on this issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How many sailplanes does this AD impact? We estimate that this AD affects 175 sailplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected sailplanes? We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	Not applicable	$120	$21,000

We estimate the following costs to do any necessary bearing replacement that will be required because of the results of the inspection. We have no way of determining the number of sailplanes that will need bearings replaced:

Labor cost	Parts cost	Total cost per sailplane
30 workhours × $60 per hour = $1,800	$35 for bearings + $550 for levers = $585.	$2,385

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is within the next 30 calendar days after the effective date of this AD.

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? Because of the typical use of sailplanes, calendar days compliance time is deemed more suitable than hours time-in-service. For

example, one sailplane operator may use the sailplane 50 hours in a month while another may only accumulate 50 hours in a year.

Why is the compliance time of this AD different from the German AD and the service information? The service information specifies the actions required in this AD

''before next flight'' and the German AD mandates these actions ''before next take-off, when play at levers is existent'' for sailplanes registered for operation in Germany. The FAA does not have justification for requiring the action before further flight. Compliance times such as these are used for urgent safety of flight conditions. Instead, FAA has determined that 30 calendar days is a reasonable time period for doing the inspection in this AD.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–10–08 Rolladen Schneider Flugzeugbau GmbH: Amendment 39–12234; Docket No. 2000–CE–33–AD.

(a) *What sailplanes are affected by this AD?* This AD affects Models LS 3, LS 4, and LS 6c sailplanes, all serial numbers, certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct corrosion damage to the airbrake levers and bearings caused by collection of water in the airbrake boxes, not detected during postflight checks. This condition could result in the airbrakes locking in the extended position and a consequent off-field or short landing.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect airbrake levers in the wing for lower end corrosion and for play in flight direction when fully extended, and retracting under load.	Within the next 30 calendar days after July 13, 2001 (the effective date of this AD), and thereafter at every three calendar years.	Do these actions following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(2) Replace the bearings if there is jamming under load.	Prior to further flight after the inspection required in paragraph (d)(1) of this AD.	Do this action following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(3) If corrosion of the bearings is found, but no jamming, replace the bearings.	Within 6 calendar months after the inspection required in paragraph (d)(1) of this AD.	Do this action following the applicable Rolladen Schneider Technical Bulletin: Model LS 3: No. 3051, dated September 14, 1999; Model LS 4: No. 4043, dated September 14, 1999; or Model LS 6c: No. 6037, dated September 14, 1999.
(4) For only the Model LS 3, adjust the lower lever member.	Within the next 30 calendar days after July 13, 2001 (the effective date of this AD).	Do this action following the procedures contained in Rolladen Schneider Technical Bulletin No. 3051, dated September 14, 1999.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each sailplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition

addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 329–4091.

(g) *What if I need to fly the sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your sailplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Rolladen Schneider Technical Bulletin No. 3051, Technical Bulletin No. 4043, or Technical Bulletin No. 6037, all dated September 14, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on July 13, 2001.

Note 2: The subject of this AD is addressed in German AD Numbers 2000–076, 2000–082, and 2000–085, all dated March 9, 2000.

Issued in Kansas City, Missouri, on May 14, 2001.

Melvin D. Taylor,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–12523 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') revises Table 1 in § 305.9 of the Commission's Appliance Labeling Rule (''Rule'') to incorporate the latest figures for average unit energy costs as published by the Department of Energy (''DOE'') in the **Federal Register** on March 8, 2001. Table 1 sets forth the representative average unit energy costs for five residential energy sources, which the Commission revises periodically on the basis of undated information provided by DOE. The Commission is also making two minor technical corrections to the Rule.

DATES: The amendments published in this document are effective May 21, 2001. The mandatory dates for using these revised DOE cost figures in connection with the Appliance Labeling Rule are detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, 202–326–2889, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580; E-mail:hnewsome@ftc.gov.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule in response to a directive in section 324 of the Energy Policy and Conservation Act (''EPCA''), 42 U.S.C. 6201.[1] The Rule requires the disclosure of energy efficiency, consumption, or cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that the energy costs, consumption, or efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in section 305.9(a) of the Rule sets forth the representative average unit energy costs to be used for all cost-related requirements of the Rule. As stated in section 305.9(b), the Table is to be revised periodically on the basis of updated information provided by DOE.

I. Representative Average Unit Energy Costs

On March 8, 2001, DOE published the most recent figures for representative average unit energy costs (66 FR 13917). These energy cost figures are for manufacturers to use, in accordance with the guidelines that appear below, to calculate the required secondary annual operating cost figures at the bottom of required EnergyGuides for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditioners. The energy cost figures also are for manufacturers of central air conditions and heat pumps to use, also in accordance with the below guidelines, to calculate annual operating cost for required fact sheets and in approved industry directories listing these products.

The DOE cost figures are not necessary for making data submissions to the Commission. The required energy use information that manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters must submit under section 305.8 of the Rule is no longer operating cost; it is now energy consumption (kilo Watt-hour use per year for electricity, therms per year for natural gas, or gallons per year for propane and oil).

Accordingly, Table 1 is revised to reflect these latest cost figures, as set forth below. The current and future obligations of manufacturers with respect to the use of DOE's cost figures are as follows:

A. For Labeling of Refrigerators, Refrigerator-Freezers, Freezers, Clothes Washers, Dishwashers, Water Heaters, and Room Air Conditioners[2]

Manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners must use the National Average Representative Unit Costs published today on labels for their products only after the Commission publishes new ranges of comparability for those products that are based on today's cost figures. In the meantime, they must continue to use past DOE cost figures as follows:

1. Refrigerators, Refrigerator-Freezers, and Freezers

Manufacturers of refrigerators, refrigerator-freezers, and freezers covered by Appendices A1, A2, A3, A4,

[1] 44 FR 66466. Since its promulgation, the Rule has been amended five times to include new product categories—central air conditioners (52 FR 46888, Dec. 10, 1987), fluorescent lamp ballasts (54 FR 1182, Jan. 12, 1989), certain plumbing products (58 FR 54955, Oct. 25, 1993), certain lamp products (59 FR 25176, May 13, 1994), and pool heaters and certain residential water heater types (59 FR 49556, Sept. 28, 1994). Obligations under the Rule concerning fluorescent lamp ballasts, lighting products, plumbing products and pool heaters are not affected by the cost figures in this notice.

[2] Sections 305.11(a)(5)(i)(H)(2) and (3) of the Rule (16 CFR 305.11(a)(5)(i)(H)(2) and (3)) require that labels for refrigerators, refrigerator-freezers, clothes washers, dishwashers, water heaters, and room air conditioners contain a secondary energy usage disclosure in terms of an estimated annual operating cost (labels for clothes washers and dishwashers will show two such secondary disclosures—one based on operation with water heated by natural gas, and one on operation with water heated by electricity). The labels also must disclose, below this secondary estimated annual operating cost, the fact that the estimated annual operating cost is based on the appropriate DOE energy cost figure, and must identify the year in which the cost figure was published.

A5, A6, B1, B2, and B3 of 16 CFR part 305 must continue to derive the operating cost disclosures on labels by using the 1998 National Average Representative Unit Costs (8.42 cents per kiloWatt-hour for electricity) published by DOE on December 8, 1997 (62 FR 64574), and by the Commission on December 29, 1997 (62 FR 67560), and that were in effect when the current (1998) ranges of comparability for these products were published.[3] Manufacturers of refrigerator-freezers covered by Appendix A7 of 16 CFR Part 305 must continue to derive the operating cost disclosures on labels by using the 2000 National Average Representative Unit Costs (8.03 cents per kiloWatt-hour for electricity) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352), and that were in effect when the current (2000) ranges of comparability for these products were published.[4] Manufacturers must continue to use the foregoing DOE cost figures until the Commission publishes new ranges of comparability. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figure for electricity in effect at that time.

2. Room Air Conditioners

Manufacturers of room air conditioners must continue to derive the operating cost disclosures on labels by using the 1995 National Average Representative Unit Costs for electricity (8.67 cents per kiloWatt-hour) that were published by DOE on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9296), and that were in effect when the current (1995) ranges of comparability for these products were published.[5] Manufacturers of room air conditioners must continue to use the 1995 DOE cost figures to calculate the operating cost disclosure disclosed on labels until the Commission publishes new ranges of comparability for room air conditioners based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figure for electricity in effect at that time.

3. Storage-Type Water Heaters

Manufacturers of storage-type water heaters must continue to use the 1994 DOE cost figures (8.41 cents per kiloWatt-hour for electricity, 60.4 cents per therm for natural gas, $1.05 per gallon for No. 2 heating oil, and 98.3 cents per gallon for propane) in determining the operating cost disclosures on the labels on their products. This is because the 1994 DOE cost figures were in effect when the 1994 ranges of comparability for storage-type water heaters were published, and those 1994 ranges are still in effect for those products.[6] Manufacturers of storage-type water heaters must continue to use the 1994 cost figures to calculate the estimated annual operating cost figures on their labels until the Commission publishes new ranges of comparability for storage-type water heaters. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures for relevant energy types in effect at that time.

4. Heat Pump Water Heaters

Manufacturers of heat pump water heaters must continue to derive the operating cost disclosures on labels by using the 2000 National Average Representative Unit Costs for electricity (8.03 cents per kiloWatt-hour) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352), and that were in effect when the current (2000) ranges of comparability for these products were published.[7] Manufacturers of heat pump water heaters must continue to use the 2000 DOE cost figures to calculate the operating cost disclosure on labels until the Commission publishes new ranges of comparability for heat pump water heaters based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures for electricity in effect at that time.

5. Gas-Fired Instantaneous Water Heaters

Manufacturers of gas-fired instantaneous water heaters must continue to base the required secondary operating cost disclosures on labels on the 1999 National Average Representative Unit Cost for natural gas (68.8 cents per therm) and propane (77 cents per therm) that were published by DOE on January 5, 1999 (64 FR 487), and by the Commission on February 17, 1999 (64 FR 7783), and that were in effect when the 1999 ranges of comparability for these products were published.[8] Manufacturers must continue to use the 1999 DOE cost figures to calculate the operating cost disclosure on labels until the Commission publishes new ranges of comparability for gas-fired instantaneous water heaters. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures for the relevant energy types in effect at that time.

6. Standard-Size Dishwashers

Manufacturers of standard-size dishwashers must continue to base the required secondary operating cost disclosures on labels on the 1997 National Average Representative Unit Costs for electricity (8.31 cents per kiloWatt-hour) and natural gas (61.2 cents per therm) that were published by DOE on November 18, 1996 (61 FR 58679), and by the Commission on February 5, 1997 (62 FR 5316), and that were in effect when the 1997 ranges of comparability for these products were published.[9] Manufacturers of standard-size dishwashers must continue to use the 1997 DOE cost figures to calculate

[3] The current (1998) ranges for refrigerators, refrigerator-freezers, and freezers covered by Appendices, A1, A2, A3, A4, A5, A6, A8, B1, B2, and B3 were published on December 2, 1998 (63 FR 66428). On December 20, 1999 (64 FR 71019) and October 23, 2000 (65 FR 63201), the Commission announced that the 1998 ranges for these products would continue to remain in effect.

[4] The current (2000) ranges for refrigerator-freezers covered by Appendix A7 were published on October 23, 2000 (65 FR 63201).

[5] The current (1995) ranges for room air conditioners were published on November 13, 1995 (60 FR 56945). On September 16, 1996 (61 FR 48620), August 25, 1997 (62 FR 44890), August 28, 1998 (63 FR 45941), December 20, 1999 (64 FR 71019), and September 1, 2000 (65 FR 53163), the Commission announced that the 1995 ranges for room air conditioners would continue to remain in effect.

[6] The 1994 DOE cost figures were published by DOE on December 29, 1993 (58 FR 68901), and by the Commission on February 8, 1994 (59 FR 5699). The current (1994) ranges of comparability for storage-type water heaters were published on September 23, 1994 (59 FR 48796). On August 21, 1995 (60 FR 43367), September 16, 1996 (61 FR 48620), August 25, 1997 (62 FR 44890), August 28, 1998 (63 FR 45941), December 20, 1999 (64 FR 71019), and September 1, 2000 (65 FR 53163), the Commission announced that the 1994 ranges for storage-type waters heaters would continue to remain in effect.

[7] The current (2000) ranges of comparability for heat pump water heaters were published on September 1, 2000 (65 FR 53163).

[8] The current ranges for gas-fired instantaneous water heaters were published on December 20, 1999 (64 FR 71019). On September 1, 2000 (65 FR 53165), the Commission announced that the 1999 ranges for gas-fired instantaneous water heaters would continue to remain in effect.

[9] The current ranges for standard-size dishwashers were published on August 25, 1997 (62 FR 44890). On August 28, 1998 (63 FR 45941), December 20, 1999 (64 FR 71019), and September 1, 2000 (65 FR 53165), the Commission announced that the 1997 ranges for standard-size dishwashers would continue to remain in effect.

the operating cost disclosures on labels until the Commission publishes new ranges of comparability for standard-size dishwashers based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figure for the relevant energy types in effect at that time.

7. Compact-Size Dishwashers and Clothes Washers

Manufacturers of compact-size dishwashers and clothes washers must continue to derive the operating cost disclosures on labels by using the 2000 National Average Representative Unit Costs for electricity (8.03 cents per kilo Watt-hour) and natural gas (68.8 cents per therm) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352), and that were in effect when the current (2000) ranges of comparability for these products were published.[10] Manufacturers of compact dishwashers and clothes washers must continue to use the 2000 DOE cost figures to calculate the operating cost disclosures on labels until the Commission publishes new ranges of comparability for compact-size dishwashers and clothes washers based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures for the relevant energy types in effect at that time.

B. For Operating Cost Information Relating to Central Air Conditioners and Heat Pumps Disclosed on Fact Sheets and in Industry Directories

In the 2001 notice announcing whether there will be new ranges of comparability for central air conditioners and heat pumps, the Commission also will announce that operating cost disclosures for these products on fact sheets and in industry directories must be based on the 2001 DOE cost figure for electricity beginning on the effective date of that notice.

C. For Operating Cost Representation Respecting Products Covered by EPCA but Not By the Commission's Rule

Manufacturers of products covered by section 323(c) of EPCA, 42 U.S.C. 6293(c), but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, and space heaters) must use the 2001 DOE energy costs in all operating cost representations beginning August 20, 2001.

II. Minor, Technical Corrections to the Rule

The Commission is amending two sections of the Rule that contain obsolete references to DOE's appliance testing requirements found in 10 CFR Part 430 (''DOE's Rule''). The current Commission Rule identifies 10 CFR 430.22 as the citation for DOE's test procedures covering a variety of appliances (see 16 CFR 305.5(a)). The correct reference is to section 430.23 of DOE's Rule. Similarly, the current Commission Rule identifies 10 CFR 430.23 as the citation for DOE's sampling procedures (see 16 CFR 305.6(a)). The correct reference is to section 430.24 of DOE's Rule.

III. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities'' (5 U.S.C. 605). The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR part 305 is amended as follows:

1. The authority citation for part 305 continues to read:

Authority: 42 U.S.C. 6294.

2. Section 305.5(a) is revised to read as follows:

§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, and of water use rate.

(a) Procedures for determining the estimated annual energy consumption, the estimated annual operating costs, the energy efficiency ratings and the efficacy factors of covered products are those found in 10 CFR part 430, subpart B, in the following sections:

(1) Refrigerators and refrigerator-freezers § 430.23(a).
(2) Freezers—§ 430.23(b).
(3) Dishwashers—§ 430.23(c).
(4) Water heaters—§ 430.23(e).
(5) Room air conditioners—§ 430.23(f).
(6) Clothes washers—§ 430.23(j).
(7) Central air conditioners and heat pumps—§ 430.23(m).
(8) Furnaces—§ 430.23(n).
(9) Pool Heaters—§ 430.23(p)
(10) Fluorescent lamp ballasts—§ 430.23(q).

* * * * *

3. Section 305.6(a) is revised to read as follows:

§ 305.6 Sampling.

(a) For any covered product (except general service flouroscent lamps, medium base compact florescent lamps, and general service incandescent lamps, including incandescent reflector lamps), any representation with respect to or based upon a measure or measures of energy consumption incorporated into § 305.5 shall be based upon the sampling procedures set forth in § 430.24 of 10 CFR part 430, subpart B.

* * * * *

4. Section 305.9(a) is revised to read as follows:

§ 305.9 Representative average unit energy costs.

(a) Table 1, to this paragraph contains the representative unit energy costs to be utilized for all requirements of this part.

[10] The current (2000) ranges of comparability for clothes washers were published on May 11, 2000 (65 FR 30351). on April 16, 2001 (66 FR 19389), the Commission announced that the 2000 ranges for clothes washers would continue to remain in effect. The current (2000) ranges of comparability for compact-size dishwashers were published on September 1, 2000 (65 FR 53165).

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2001)

Type of energy	In commonly used terms	As required by DOE test procedure	Dollars per million Btu [1]
Electricity	8.29¢/kWh [2 3]	$0.0829/kWh	$24.30
Natural Gas	83.7¢/therm [4] or $8.63/MCF [5 6]	0.00000837/Btu	8.37
No. 2 heating oil	$1.23/gallon [7]	0.00000886/Btu	8.86
Propane	$1.03/gallon [8]	0.00001128/Btu	11.28
Kerosene	$1.27/gallon [9]	0.00000941/Btu	9.41

[1] Btu stands for British thermal unit.
[2] kWh stands for kiloWatt hour.
[3] 1 kWh = 3,412 Btu.
[4] therm = 100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,031 Btu.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary,

[FR Doc. 01–12676 Filed 5–18–01; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is granting an exemption to firms designated by the Winnipeg Commodity Exchange (''WCE'') from the application of certain of the Commission's foreign futures and option rules based on substituted compliance with certain comparable regulatory and self-regulatory requirements of a foreign regulatory authority consistent with conditions specified by the Commission, as set forth herein. This Order is issued pursuant to Commission Rule 30.10, which permits specified persons to file a petition with the Commission for exemption from the application of certain of the rules set forth in Part 30 and authorizes the Commission to grant such an exemption if such action would not be otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought.

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Esq., Associate Chief Counsel, Susan A. Elliott, Esq., Staff Attorney, or Andrew V. Chapin, Esq., Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Under CFTC Rule 30.10 Exempting Firms Designated by the Winnipeg Commodity Exchange From the Application of Certain of the Foreign Futures and Option Rules the Later of the Date of Publication of the Order Herein in the **Federal Register** or After Filing of Consents by Such Firms and the Regulatory or Self-Regulatory Organization, as Appropriate, to the Terms and Conditions of the Order Herein.

Commission rules governing the offer and sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade to customers located in the U.S. are contained in Part 30 of the Commission's rules.[1] These rules include requirements for intermediaries with respect to registration, disclosure, capital adequacy, protection of customer funds, recordkeeping and reporting, and sales practice and compliance procedures, that are generally comparable to those applicable to transactions on U.S. markets.

In formulating a regulatory program to govern the offer and sale of foreign futures and option products to customers located in the U.S., the Commission, among other things, considered the desirability of ameliorating the potential extraterritorial impact of such a program and avoiding duplicative regulation of firms engaged in international business. Based upon these considerations, the Commission determined to permit persons located outside the U.S. and subject to a comparable regulatory structure in the jurisdiction in which they were located to seek an exemption from certain of the requirements under Part 30 of the Commission's rules based upon substituted compliance with the comparable regulatory requirements of the foreign jurisdiction.

Appendix A to Part 30, ''Interpretative Statement With Respect to the Commission's Exemptive Authority Under 30.10 of Its Rules' (''Appendix A''), generally sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10.[2] These elements include: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons through whom customer orders are solicited and accepted; (2) minimum financial requirements for those persons who accept customer funds; (3) protection of customer funds from misapplication; (4) recordkeeping and reporting requirements; (5) sales practice standards; (6) procedures to audit for compliance with, and to take action against those persons who violate, the requirements of the program; and (7) information sharing arrangements between the Commission and the appropriate governmental and/or self-regulatory organization to ensure Commission access on an ''as needed'' basis to information essential to maintaining standards of customer and market protection within the U.S.

Moreover, the Commission specifically stated in adopting Rule 30.10 that no exemption of a general nature would be granted unless the persons to whom the exemption is to be applied: (1) consensually submit to jurisdiction in the U.S. by designating an agent for service of process in the

[1] Commission rules referred to herein are found at 17 CFR Ch. I (2000).

[2] 52 FR 28990, 29001 (August 5, 1987).

U.S. with respect to transactions subject to Part 30 and filing a copy of the agency agreement with the National Futures Association (''NFA''); (2) agree to provide access to their books and records in the U.S. to Commission and Department of Justice representatives; and (3) notify NFA of the commencement of business in the U.S.[3]

By letter dated June 29, 2000 and subsequent correspondence through September 26, 2000, the WCE petitioned the Commission on behalf of certain firms located and doing business in Manitoba for an exemption from the application of the Commission's Part 30 rules to those firms. In support of its petition, the WCE states that granting such an exemption with respect to firms that it has authorized to conduct foreign futures and options transactions on behalf of customers located in the U.S. would not be contrary to the public interest or to the purposes of the provisions from which the exemption is sought because such firms are subject to a regulatory framework comparable to that imposed by the Commodity Exchange Act (''Act'') and the rules thereunder.

Based upon a review of the petition, supporting materials filed by the WCE and the recommendation of the Commission's staff, the Commission has concluded that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A thereof, have generally been satisfied and that compliance with applicable Manitoba and Canadian law and WCE rules may be substituted for compliance with those sections of the Act and rules thereunder more particularly set forth herein.

By this Order, the Commission hereby exempts, subject to specified conditions, those firms identified to the Commission by the WCE as eligible for the relief granted herein from:

—Registration with the Commission for firms and for firm representatives;

—The requirement in Commission Rule 30.6(a) and (d), 17 CFR 30.6(a) and (d), that firms provide customers located in the U.S. with the risk disclosure statements in Commission Rule 1.55(b), 17 CFR 1.55(b) and Commission Rule 33.7, 17 CFR 33.7, or as otherwise approved under Commission Rule 1.55(c), 17 C.F.R. § 1.55(c);

—Those sections of Part 1 of the Commission's financial rules that apply to foreign futures and options sold in the U.S. as set forth in Part 30; and

—Those sections of Part 1 of the Commission's rules relating to books and records which apply to transactions subject to Part 30,

based upon substituted compliance by such persons with the applicable statutes and regulations in effect in the province of Manitoba.

This determination to permit substituted compliance is based on, among other things, the Commission's finding that the regulatory scheme governing persons in Manitoba who would be exempted hereunder provides:

(1) A system of qualification or authorization of firms who deal in transactions subject to regulation under Part 30 that includes, for example, criteria and procedures for granting, monitoring, suspending and revoking licenses, and provisions for requiring and obtaining access to information about authorized firms and persons who act on behalf of such firms;

(2) Financial requirements for firms including, without limitation, a requirement that all firms immediately notify WCE if the firms' adjusted net capital falls below a specified level and daily mark-to-market settlement and/or accounting procedures;

(3) A system for the protection of customer assets that is designed to preclude the use of customer assets to satisfy house obligations and requires separate accounting for such assets, augmented by a compensation scheme designed to compensate customers whose assets are segregated and who have suffered a loss as a result of fraud and/or insolvency of a firm;

(4) Recordkeeping and reporting requirements pertaining to financial and trade information including, without limitation, order tickets, trade confirmations, monthly customer account statements, customers' segregation records, accounting records for customer and proprietary trades and discretionary account documentation;

(5) Sales practice standards for authorized firms and persons acting on their behalf that include, for example, a requirement that authorized persons know their customers, required disclosures to prospective customers and prohibitions on misleading advertising and improper trading activities;

(6) Procedures to audit for compliance with, and to redress violations of, customer protection and sales practice requirements including, without limitation, an affirmative surveillance program designed to detect trading activities that take advantage of customers, and the existence of broad powers of investigation relating to sales practice abuses; and

(7) Mechanisms for sharing of information between the Commission, the WCE, and the MSC on an ''as needed'' basis including, without limitation, confirmation data, data necessary to trace funds related to trading futures products subject to regulation in Manitoba, position data, and data on firms' standing to do business and financial condition.

This Order does not provide an exemption from any provision of the Act or rules thereunder not specified herein, for example, without limitation, the antifraud provision in Rule 30.9. Moreover, the relief granted is limited to brokerage activities undertaken on behalf of customers located in the U.S. with respect to transactions on or subject to the rules of the WCE for products that customers located in the U.S. may trade.[4] The relief does not extend to rules relating to trading, directly or indirectly, on U.S. exchanges. For example, a firm trading in U.S. markets for its own account would be subject to the Commission's large trader reporting requirements.[5] Similarly, if such a firm were carrying a position on a U.S. exchange on behalf of foreign clients, it would be subject to the reporting requirements applicable to foreign brokers.[6] The relief herein is inapplicable where the firm solicits or accepts orders from customers located in the U.S. for transactions on U.S. markets. In that case, the firm must comply with all applicable U.S. laws and regulations, including the requirement to register in the appropriate capacity.

The relief also does not extend to trading, directly or indirectly, on any other non-U.S. exchanges. Should the WCE seek to extend the Rule 30.10 relief set forth herein to permit designated members to solicit and accept orders from customers located in the U.S. for otherwise permitted transactions on any other non-U.S. exchange, it must apply for and receive prior approval from the Commission. In a petition to extend the relief set forth herein to other non-U.S. exchanges, the WCE must: (1) Represent that local law prohibits its members from intermediating otherwise permitted transactions for customers located in the U.S. on unapproved foreign exchanges as set forth therein, and must specify which exchanges are authorized by local law; (2) represent that member firms with customers located in the U.S. will comply with all the terms and conditions of this Order with respect to transactions entered into on or subject to the rules of a foreign exchange located outside its jurisdiction; and (3) confirm that it has the authority and the ability to enforce its laws, rules and/or regulations with respect to those transactions to the same extent that it conducts such activities on an exchange located within its jurisdiction.[7]

[3] 52 FR 28980, 28981 and 29002.

[4] See, e.g., Sections 2(a)(1)(C) and (D) of the Commodity Exchange Act.

[5] See, e.g., 17 CFR Part 18 (2000).

[6] See, e.g., 17 CFR Parts 17 and 21 (2000).

[7] See 64 FR 50248, 50251 (September 16, 1999)(permitting designated members of the Singapore Exchange Derivatives Trading Limited to solicit and accept orders from customers located in the U.S. for otherwise permitted transactions on Eurex Deutschland).

The eligibility of any firm to seek relief under this exemptive Order is subject to the following conditions:

(1) The regulatory or self-regulatory organization responsible for monitoring the compliance of such firms with the regulatory requirements described in the Rule 30.10 petition must represent in writing to the CFTC that:

(a) Each firm for which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards in place in Manitoba; such firm is engaged in business with customers in Manitoba as well as in the U.S.; and such firm and its principals and employees who engage in activities subject to Part 30 would not be statutorily disqualified from registration under Section 8a(2) of the Act, 7 U.S.C. § 12(a)(2);

(b) It will monitor firms to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or NFA of any change in status of a firm that would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the U.S.;

(c) All transactions with respect to customers made in the U.S. will be made on or subject to the rules of WCE and the Commission will receive prompt notice of all material changes to the relevant laws in Manitoba, any rules promulgated thereunder and WCE rules;

(d) Customers located in the U.S. will be provided no less stringent regulatory protection than Canadian customers under all relevant provisions of Manitoba law; and

(e) It will cooperate with the Commission with respect to any inquiries concerning any activity subject to regulation under the Part 30 rules, including sharing the information specified in Appendix A on an ''as needed'' basis and will use its best efforts to notify the Commission if it becomes aware of any information that in its judgment affects the financial or operational viability of a member firm doing business in the U.S. under the exemption granted by this Order.

(2) Each firm seeking relief hereunder must represent in writing that it:

(a) Is located outside the U.S., its territories and possessions, and where applicable, has subsidiaries or affiliates domiciled in the U.S. with a related business (e.g., banks and broker/dealer affiliates) along with a brief description of each subsidiary's or affiliate's identity and principal business in the U.S.;

(b) Consents to jurisdiction in the U.S. under the Act by filing a valid and binding appointment of an agent in the U.S. for service of process in accordance with the requirements set forth in Rule 30.5;

(c) Agrees to provide access to its books and records related to transactions under Part 30 required to be maintained under the applicable statutes and regulations in effect in Manitoba upon the request of any representative of the Commission or U.S. Department of Justice at the place in the U.S. designated by such representative, within 72 hours, or such lesser period of time as specified by that representative as may be reasonable under the circumstances after notice of the request;

(d) Has no principal, or employee who solicits or accepts orders from customers located in the U.S., who would be disqualified from directly applying to do business in the U.S. under Section 8a(2) of the Act, 7 U.S.C. § 12(a)(2), and will notify the Commission promptly of any change in that representation based on a change in control as generally defined in Rule 3.32;

(e) Consents to participate in any NFA arbitration program that offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under Part 30, even in circumstances where the claim involves a matter arising primarily out of delivery, clearing, settlement or floor practices, and consents to notify customers located in the U.S. of the availability of such a program;

(f) Agrees to maintain, on behalf of customers located in the U.S., funds equivalent to the ''foreign futures and foreign options secured amount'' described in Rule 1.3(rr), in a separate account as set forth in Rule 30.7, and to treat those funds in the manner described by that rule; and

(g) Undertakes to comply with the applicable provisions of Manitoba laws and WCE rules that form the basis upon which this exemption from certain provisions of the Act and rules thereunder is granted.

As set forth in the Commission's September 11, 1997 Order delegating to NFA certain responsibilities, the written representations set forth in paragraph (2) shall be filed with NFA.[8] Each firm seeking relief hereunder has an ongoing obligation to notify NFA should there be a material change to any of the representations required in the firm's application for relief.

This Order will become effective as to any designated WCE member firm the later of the date of publication of the Order in the **Federal Register** or the filing of the consents set forth in paragraph (2). Upon filing of the notice required under paragraph (1)(b) as to any such firm, the relief granted by this Order may be suspended immediately as to that firm. That suspension will remain in effect pending further notice by the Commission, or the Commission's designee, to the firm and WCE.

This Order is issued pursuant to Rule 30.10 based on the comparability representations made and supporting material provided to the Commission and the recommendation of the staff, and is made effective as to any firm granted relief hereunder based upon the filings and representations of such firms required hereunder. Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A, have generally been satisfied. Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular firm, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific firm, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion.

The Commission will continue to monitor the implementation of its program to exempt firms located in jurisdictions generally deemed to have a comparable regulatory program from the application of certain of the foreign futures and option rules and will make necessary adjustments if appropriate.

Issued in Washington, DC on May 15, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–12696 Filed 5–18–01; 8:45 am]

BILLING CODE 6351–01–P

[8] 62 FR 47792, 47793 (September 11, 1999). Among other duties, the Commission authorized NFA to receive requests for confirmation of Rule 30.10 relief on behalf of particular firms, to verify such firms' fitness and compliance with the conditions of the appropriate Rule 30.10 Order and to grant exemptive relief from registration to qualifying firms.

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

28 CFR Chapter IX

[NCPPC 100–F]

Fingerprint Submission Requirements

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Final rule.

SUMMARY: The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact), is publishing a rule interpreting the Compact's fingerprint-submission requirements as they relate to the use of the Interstate Identification Index (III) for noncriminal justice record checks during an emergency situation when the health and safety of a specified group may be endangered. Pursuant to the rule, the Compact Council has approved a proposal from a state requesting the delayed submission

of fingerprints in connection with criminal history records searches conducted for the purpose of the emergency placement of children with temporary custodians. The Council's approval of such a state request is being published in the Notice section of today's **Federal Register**.

EFFECTIVE DATE: This final rule is effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Wilbur Rehmann, Compact Council Chairman, Montana Department of Justice, 303 North Roberts, 4th Floor, Post Office Box 201406, Helena, Montana 59620–1406, telephone number (406) 444–6194.

SUPPLEMENTARY INFORMATION: The National Crime Prevention and Privacy Compact, 42 U.S.C. 14611–16, establishes uniform standards and processes for the interstate and federal-state exchange of criminal history records for noncriminal justice purposes. The Compact was signed into law on October 9, 1998, (Pub. L. 105–251) and became effective on April 28, 1999 when ratified by the second State.

Background

The Compact requires that subject's fingerprints or other approved forms of positive identification ''shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.'' *See* 42 U.S.C. 14616, Article V (a). The Compact Council recognizes the extreme reliability of fingerprint-based identifications and believes that the above quoted provision requires that, whenever feasible, fingerprints should be submitted contemporaneously with search requests. However, the Council acknowledges that there are exigent circumstances in which time is a critical factor in decision making and in which the immediate fingerprinting of the subject is not feasible. In such emergency circumstances, the Council believes that the Compact permits preliminary name searches of the III System to be conducted for noncriminal justice purposes, provided that subject's fingerprints are obtained and submitted at the earliest time feasible. This procedure allows access to criminal history record information in a timely manner in exigent circumstances with follow-up positive identification assured by fingerprint submissions.

The rule published herein authorizes state criminal history record repositories and the FBI, upon approval by the Compact Council, to grant access to the III System in emergency situations on a delayed fingerprint submission basis, predicated upon a statute approved by the U.S. Attorney General pursuant to Pub. L. 92–544 and Article III (c) of the Compact. Access authorized by the rule shall adhere to both the Criminal Justice Information Services Security Policy and applicable state security policies. A noncriminal justice agency granted access to the III must adhere to applicable federal and state audit protocols. Violation and/or misuse of the authorized access granted may result in sanctions from the Compact Council, which may include the discontinuance of services.

Proposals to the Compact Council for granting of delayed fingerprint submission under the rule should be sent to the Compact Council Chairman at the address set out above. Such proposals should include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to the health or safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

The rule (Sec. 901.3) provides that once a proposal from any state has been approved by the Compact Council, other states may apply for delayed submission authority consistent with that approved proposal through application to the FBI's Compact Officer. For example, applications for such authority dealing with the emergency placement of children, a proposal for which has been approved by the Council in a notice published separately in today's **Federal Register**, may be filed with the FBI's Compact Officer rather than with the Council Chairman.

Administrative Procedures and Executive Orders

Administrative Procedures Act

This rule is published by the Compact Council as authorized by the National Crime Prevention and Privacy Compact (Compact), an interstate/federal compact which was approved and enacted into law by Congress pursuant to Pub. L. 105–251. The Compact Council is composed of 15 members (with 11 state and local governmental representatives), and is authorized by the Compact to promulgate rules and procedures for the effective and proper use of the Interstate Identification Index (III) System for noncriminal justice purposes. The Compact specifically provides that the Council shall prescribe rules and procedures for the effective and proper use of the III System for noncriminal justice purposes, and mandates that such rules, procedures, or standards established by the Council shall be published in the **Federal Register**. *See* 42 U.S.C. 14616, Articles II(4) and VI(a)(1), (e). This publication complies with those requirements.

Executive Order 12866

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

Executive Order 13132

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this Rule fully complies with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

Executive Order 12988

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

Unfunded Mandates Reform Act

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. Accordingly, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act (Title 5, U.S.C. 801–804) is not applicable to the Council's rule because the Compact Council is not a ''Federal agency'' as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. *See* 5 U.S.C. 804.

List of Subjects in 28 CFR Part 901

Crime, Health, Privacy, Safety.

Accordingly, for the reasons set forth above, and by the authority vested in the National Crime Prevention and Privacy Compact, Title 28 of the Code of Federal Regulations is amended by establishing a new chapter IX consisting of Part 901 to read as follows:

CHAPTER IX—NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Part

901 Fingerprint Submission Requirements

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

Sec.
901.1 Purpose and authority.
901.2 Interpretation of fingerprint submission requirements.
901.3 Approval of delayed fingerprint submission request.

Authority: 42 U.S.C. 14616.

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

§ 901.1 Purpose and authority.

The Compact Council is established pursuant to the National Crime Prevention and Privacy Compact (Compact), Title 42, U.S.C., Chapter 140, Subchapter II, Section 14616. The purpose of these provisions is to interpret the Compact, as it applies to the required submission of fingerprints, along with requests for Interstate Identification Index (III) records, by agencies authorized to access and receive criminal history records under Public Law 92–544, and to establish protocols and procedures applicable to the III and its use for noncriminal justice purposes.

§ 901.2 Interpretation of fingerprint submission requirements.

(a) Article V of the Compact requires the submission of fingerprints or other approved forms of positive identification with requests for criminal history record checks for noncriminal justice purposes. The Compact Council finds that the requirement for the submission of fingerprints may be satisfied in two ways:

(1) The fingerprints should be submitted contemporaneously with the request for criminal history information, or

(2) For purposes approved by the Compact Council, a delayed submission of fingerprints may be permissible under exigent circumstances.

(b) The Compact Council further finds that a preliminary III name based check may be made pending the receipt of the delayed submission of the fingerprints. The state repository may authorize terminal access to authorized agencies designated by the state, to enable them to conduct such checks. Such access must be made pursuant to the security policy set forth by the state's Control Terminal Agency.

§ 901.3 Approval of delayed fingerprint submission request.

(a) A State may, based upon exigent circumstances, apply for delayed submission of fingerprints supporting requests for III records by agencies authorized to access and receive criminal history records under Public Law 92–544. Such applications must be sent to the Compact Council Chairman and include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to health and safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

(b) In evaluating requests for delayed submissions, the Compact Council must utilize the following criteria:

(1) The risk to health and safety; and

(2) The emergency nature of the request.

Upon approval of the application by the Compact Council, the authorized agency may conduct a III name check pending submission of the fingerprints. The fingerprints must be submitted within the time frame specified by the Compact Council.

(c) Once a specific proposal has been approved by the Compact Council, another state may apply for delayed fingerprint submission consistent with the approved proposal, provided that the state has a related Public Law 92–544 approved state statute, by submitting the application to the FBI's Compact Officer.

Dated: May 3, 2001.

Wilbur Rehmann,

Compact Council Chairman.

[FR Doc. 01–12533 Filed 5–18–01; 8:45 am]

BILLING CODE 4410–02–U

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

RIN 1219–AB11

Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners; Delay of Effective Dates

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

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

SUMMARY: The Mine Safety and Health Administration is delaying for 45 days the effective date of the rule entitled, ''Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners,'' published in the **Federal Register** on January 19, 2001 (66 FR 5706). This temporary delay will allow the Department an opportunity to engage in further negotiations to settle the legal challenges to this rule.

EFFECTIVE DATE: The effective date of the rule amending 30 CFR Part 57 published on January 19, 2001, at 66 FR 5706 and delayed on March 15, 2001 at 66 FR 15032, is further delayed from May 21, 2001, until July 5, 2001. The amendment to § 57.5067 in this final rule will become effective July 5, 2001. However, § 57.5060(a) will continue to apply on July 19, 2002, and § 57.5060(b) will continue to apply on January 19, 2006.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Director; Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984. Mr. Meyer can be reached at Meyer-David@msha.gov (E-mail), 703–235–1910 (Voice), or 703–235–5551 (Fax).

SUPPLEMENTARY INFORMATION: On January 19, 2001, MSHA published a final rule addressing the exposure of underground metal and nonmetal miners to diesel particulate matter (dpm). The final rule establishes new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines and requires operators of these underground mines to train miners about the hazards of being exposed to diesel particulate matter. In accordance with the January 20, 2001, memorandum from Andrew H. Card, MSHA announced a 60-day delay of the effective date of certain provisions of the final regulations to permit the Secretary of Labor to further consider the provisions of the rule. An additional delay of 45 days to July 5, 2001 is necessary to give the parties an opportunity to continue negotiations to settle the legal challenge to the rule described below.

On January 29, 2001, Anglogold (Jerritt Canyon) Corp. and Kennecott Greens Creek Mining Company filed a petition for review of the rule in the District of Columbia Circuit. On February 7, 2001, the Georgia Mining Association, the National Mining Association, the Salt Institute, and MARG Diesel Coalition filed a similar petition in the Eleventh Circuit. On March 14, 2001, Getchell Gold Corporation petitioned for review of the rule in the District of Columbia Circuit. The three petitions have been consolidated and are pending in the District of Columbia Circuit. The United Steelworkers of America (USWA) has

intervened in the Anglogold case. The parties to the litigation have begun settlement negotiations, and the Department is hopeful that, within the next 45 days, agreement will be reached on many of the issues in dispute.

I. Delayed Effective Dates

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). The delay of the effective date of the rule is effective immediately upon publication of this notice in the **Federal Register**. Publication of this notice without the opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The 45-day delay of the effective dates is necessary to give the parties an opportunity to engage in negotiations to settle the legal challenges to the rule. Given the imminence of the effective date, seeking prior public comment on this delay is impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. See also, 5 U.S.C. 705 (''When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review'').

II. Revisions to the Regulatory Text of the Final Rule Addressing Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners

List of Subjects in 30 CFR Parts 57

Diesel particulate matter, Metal and Nonmetal, Mine Safety and Health, Underground mines.

The final rule published on January 19, 2001 (66 FR 5526) is amended as follows:

PART 57—[AMENDED]

1. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811, 957, 961.

§ 57.5067 [Amended]

2. In § 57.5067, paragraph (a) is amended by removing the date ''March 20, 2001'' and adding in its place ''July 5, 2001.''

Note: This amendment supersedes the amendment to § 57.5067(a) published on March 15, 2001 at 66 FR 15033.)

Signed at Arlington, VA, this 16th day of May, 2001.

David D. Lauriski,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 01–12767 Filed 5–18–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 72

RIN 1219–AA74

Diesel Particulate Matter Exposure of Underground Coal Miners; Corrections

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; corrections and notice of information collection approval.

SUMMARY: This document contains corrections to the final rule published in the **Federal Register** on January 19, 2001, which addresses the exposure of underground coal miners to diesel particulate matter (dpm) (66 FR 5526).[1] As discussed in the preamble to the final rule, § 72.500 requires that all permissible equipment emit no more than 2.5 grams of dpm per hour. For nonpermissible, heavy-duty diesel-powered equipment, generators and compressors, § 72.501 specifies an interim limit of 5.0 grams of dpm per hour, and a final limit of 2.5 grams of dpm per hour. Similarly, § 72.502 specifies that nonpermissible light-duty equipment other than generators and compressors must emit no more than 5.0 grams of dpm per hour. Although the preamble discussion of these provisions made MSHA's intentions clear as to the emissions limits established in the final regulation, the preamble and the codified text of the final rule contained grammatical errors. Therefore, this correction document is necessary. These corrections are effective on May 21, 2001, the effective date of the final rule.

This document also provides notice that the information collection requirements contained in the final rule have been approved by the Office of Management and Budget (OMB).

EFFECTIVE DATE: These corrections are effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Director; Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984. Mr. Meyer can be reached at *Meyer-David@msha.gov* (E-mail), 703–235–1910 (Voice), or 703–235–5551 (Fax).

SUPPLEMENTARY INFORMATION: On January 19, 2001, MSHA published a final rule that addresses the exposure of underground coal miners to diesel particulate matter (dpm) (66 FR 5526). The rule establishes new health standards for underground coal mines that use equipment powered by diesel engines and, among other things, requires operators of these underground mines to train miners about the hazards of exposure to dpm.

As discussed in the preamble to the final rule (66 FR 5669), § 72.500(a) requires that all permissible diesel-powered equipment introduced into an underground area of an underground coal mine emit no more than of 2.5 grams of dpm per hour as of the effective date of the final rule. Paragraph (b) requires all existing equipment to meet this limit as of July 19, 2002.

For non-permissible, heavy-duty diesel-powered equipment, generators and compressors introduced into an underground area of a coal mine, the final rule's preamble to § 72.501(a) specifies an interim emissions limit; that is, that this equipment must not emit more than 5.0 grams of dpm per hour on the effective date of the final rule. Paragraph (b) requires existing diesel equipment not to exceed this limit as of July 21, 2003. Paragraph (c) prohibits non-permissible, heavy-duty diesel-powered equipment from exceeding 2.5 grams per hour of dpm emissions as of January 19, 2005.

Similarly, the preamble discussion to § 72.502 specifies that nonpermissible light-duty diesel-powered equipment, other than generators and compressors, introduced into an underground area of a coal mine after the effective date of the final rule must not emit more than 5.0 grams of dpm per hour.

The regulatory text to each of the above provisions contains grammatical errors that may be confusing to the mining community. These errors were inadvertently included at the time of publication. This document corrects these errors, as well as others made in the preamble at the time of publication. These corrections are effective on May 21, 2001, the effective date of the final rule.

Procedural Requirements

MSHA believes that correcting these inadvertent errors in the final rule is not a rule to which the procedural requirements of 5 U.S.C. 553, or the various statutes and executive orders relating to rules, apply. However, if

[1] The effective date for this final rule was delayed in a document published in the **Federal Register** on March 15, 2001 (66 FR 15033).

these corrections were deemed a rule, the notice and comment provisions of the Administrative Procedure Act do not apply based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). MSHA finds good cause not to provide further notice and comment in that additional notice and comment would be unnecessary and contrary to the public interest because the public was advised in the preamble to the final rule of MSHA's intention regarding each of the above regulatory provisions. Consequently, unnecessary confusion would result if these corrections are not made immediately.

The final rule published on January 19, 2001, contained information collection provisions that require an OMB Control Number. OMB has approved the information collection requirements and assigned OMB Control Number 1219–0124 to the information collection requirements of the final rule.

These corrections contain no additional information collection requirements. In addition, this action is not a ''significant regulatory action'' within the meaning of Executive Order 12866. Furthermore, this action is not a ''major rule'' within the meaning of the Small Business Regulatory Enforcement Act, or an ''unfunded mandate'' within the meaning of Title II of the Unfunded Mandates Reform Act of 1995. Finally, the action will not have Federalism implications within the meaning of Executive Order 13132, and a regulatory flexibility analysis is not required by the Regulatory Flexibility Act.

Accordingly, MSHA makes the following corrections to the final rule published on January 19, 2001.

I. Printing Errors in the Preamble

In the **Federal Register** issue of January 19, 2001 (66 FR 5526), make the following corrections to the preamble:

1. On page 5526, column 1, fourth paragraph of the Summary, line 3, change ''coal'' to ''metal and nonmetal''.

2. On page 5672, column 2, first paragraph, line 8, after the word ''determining'' delete ''the permissible fleet.'' and insert the following:

''the total amount of dpm, expressed in grams/hour, produced by the engine over the test cycle described in ISO 8178. The particulate index is determined by calculating the quantity of air required to dilute that particulate to a concentration of 1 mg/m^3. The quantity of dpm emitted from the machine is determined by multiplying the quantity of dpm emitted from the engine (gm/hr) by the filtration efficiency of the aftertreatment device (%). Therefore, in a very real sense, the Agency is using a significant portion of the concepts embodied in the particulate index in this final rule.

Why MSHA concluded that the emission limit for permissible equipment should be 2.5 grams per hour. The emission limit was determined with reference to technological and economic feasibility. While mine operators can use a variety of controls to reduce the emissions from a piece of permissible equipment, the two controls that can produce the significant reductions for permissible equipment are cleaner engines and filters. None of the cleaner engines produced in recent years has been approved for permissible applications. Accordingly, MSHA determined it should set the limit at what can be achieved technologically with filtration and the currently approved permissible engines.

As a reference point, MSHA calculated the emission limit that could be achieved if a high-efficiency filter were applied to the engine that produced the most dpm emission in the permissible fleet.''

3. On page 5678, column 1, the second paragraph is the heading of a section and should be italicized and read as follows: ''*Why the final rule uses a machine-based emission limit instead of requiring a high-efficiency filtration system.*''

4. On page 5681, column 2, the first sentence of the second paragraph is a section heading and should be italicized and read as follows: ''*How did MSHA determine the emissions limit for newly introduced light-duty equipment?*''

II. Additional Corrections to the Preamble

In the final regulations published on January 19, 2001 (66 FR 5526), make the following additional corrections to the preamble:

1. On page 5547, column 1, third paragraph, line 7, change ''Commerica'' to ''commercial''.

2. On page 5563, change title of the figure from ''Figure 5'' to ''Figure III–1''.

3. On page 5565, change title of the figure from ''Figure 6'' to ''Figure III–2''.

4. On page 5568, change title of the figure from ''Figure 7'' to ''Figure III–3''.

5. On page 5598, column 1, third paragraph, line 5, change ''Footnote 42'' to ''Footnote 44''.

6. On page 5639, column 3, first paragraph, lines 5 and 6, change ''Figures III–9 and III–10'' to ''Figures III–5 and Figure III–6''.

7. On page 5640, the title of the figure should read Figure III–5'' and at the end of the caption insert ''(Cohen and Higgins, 1995)''.

8. On page 5641, the title of the figure should read ''Figure III–6'' and at the end of the caption insert ''(Cohen and Higgins, 1995)''.

9. On page 5655, column 3, fourth paragraph, line 19, change ''Figure III–11'' to ''Figure III–7''.

10. On page 5656, column 2, first paragraph, line 1, change ''Figure III–11'' to ''Figure III–7''.

11. On page 5656, change the title of the figure from Figure III–11'' to ''Figure III–7''.

12. On page 5683, Table 72.502–1, column 2, after the last line, insert the following:

''450≤kW<560 (600≤hp<750)	0.20 g/kW-hr (0.15 g/bhp-hr)''
''kW≥560 (hp≥750)	0.20 g/kW-hr (0.15 g/bhp-hr)''

13. On page 5685, column 1, fourth paragraph, line 15, insert ''other'' after the word ''from''.

14. On page 5685, column 1, fifth paragraph, line 10, change ''by the filter'' to ''by one minus the filter''.

15. On page 5687, column 3, first paragraph, line 24, change ''within 6 months.'' to ''within 7 calendar days.''

16. On page 5687, column 3, first paragraph, line 31, at the end of the sentence insert ''of the request.''

17. On page 5688, Table I–1, after the last row in the table insert:

''Initial Miner Health Training—60 days''

''Submission of Diesel Equipment Inventory—60 days''

18. On page 5689, column 1, third paragraph, line 15, insert ''Light-duty'' at the beginning of the sentence.

19. On page 5689, column 1, third paragraph, at the end of the paragraph, insert the following:

''Section 72.510 of the final rule addresses Miners Health Training. It was unchanged from the proposed rule. Miners will be required to be trained on: (1) The health risk associated with exposure to diesel particulate matter; (2) the methods used in the mine to control diesel particulate matter concentrations; (3) identification of the person responsible for maintaining those controls; and (4) actions miners must take to ensure the controls operate as intended. The final rule is the same as

that proposed. Additionally, a record of that training must be maintained and made available to MSHA and the representatives of the miners. This section will take effect 60 days after the effective date of the regulation. The initial miners health training will have to be completed within that time frame and then annually thereafter. MSHA believes that 60 days is ample time to comply with this provision.

Section 72.520 of the final rule addresses the Diesel Equipment Inventory. This section will take effect 60 days after the effective date of the regulation. The initial Diesel Equipment Inventory containing a list of diesel equipment and exhaust emission controls must be completed and submitted within that time frame. Subsequent modifications to the inventory must be submitted within seven calendar days to the District Manager. MSHA believes that 60 days is ample time to comply with this provision. The inventory must be mailed or faxed to the MSHA District Office.''

20. On page 5695, column 3, sixth paragraph, line 4, change ''number 7'' to ''number 8.''

PART 72—[CORRECTED]

III. Corrections to the Regulatory Text

In the final regulations published on January 19, 2001, (66 FR 5526) make the following corrections to the regulatory text of 30 CFR Part 72:

1. On page 5704, column 3, § 72.500, paragraph (a), line 4, remove the word ''not''.

2. On page 5704, column 3, § 72.500, paragraph (b), line 4, remove the word ''not''.

3. On page 5704, column 3, § 72.501, paragraph (a), line 6, remove the word ''not''.

4. On page 5705, column 1, § 72.501, paragraph (b), line 7, remove the word ''not''.

5. On page 5705, column 1, § 72.501, paragraph (c), line 7, remove the word ''not''.

6. On page 5705, column 3, § 72.502, paragraph (a), line 3, remove the word ''not''.

7. On page 5705, § 72.502, Table 72.502–1, column 2, add the following two entries at the end of the table:

''450≤kW<560 (600≤hp<750)''
''kW≥560 (hp≥750)''

8. On page 5705, § 72.502, Table 72.502–1, column 3, add the following two entries at the end of the table:

''0.20 g/kW-hr (0.15 g/bhp-hr)''
''0.20 g/kW-hr (0.15 g/bhp-hr)''

Signed at Arlington, VA, this 16th day of May, 2001.

David D. Lauriski,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 01–12766 Filed 5–18–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–01–003]

RIN 2115–AE47

Drawbridge Operation Regulations; Trail Creek, IN

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the operating regulation governing moveable bridges on Trail Creek in Michigan City, Indiana. This rule will establish twice-an-hour openings for the Franklin Street bridge, mile 0.5, during the peak navigation season, revise the current regulation for the Amtrak bridge, mile 0.85, and establish winter schedules for both bridges.

DATES: This rule is effective June 20, 2001.

ADDRESSES: Comments and material received from the public, as well as all material in the docket CGD09–01–003, are available for inspection or copying at the office of Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH, 44199–2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, Ninth Coast Guard District Bridge Branch, at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 28, 2001, the Coast Guard published a notice of proposed rulemaking concerning these drawbridge regulations in the **Federal Register** (66 FR 12745). We received no comments concerning the proposed rule. No public hearing was requested and none was held.

Background and Purpose

The owner of the Franklin Street bridge, LaPorte County Highway Department, IN, requested the Coast Guard approve a modified schedule for the bridge to reduce vehicular traffic delays in the vicinity of the bridge during the peak tourist season and to establish a permanent winter operating schedule. The current regulation for the Amtrak bridge is obsolete and does not accurately reflect current train and vessel operations at that location.

The Amtrak bridge is currently required to open on signal between the hours of 6:30 a.m. and 2:30 p.m., except Sundays, from February 16 through December 14. The bridge is not required to be manned all other times and would be opened within 20 minutes following notification to the Amtrak dispatcher in Chicago. The Coast Guard determined that this schedule did not provide for the reasonable needs of navigation and places undue burden on vessel operators wishing to pass the draw. Amtrak representatives concurred with this finding. Also, the bridge was manned during periods of no vessel traffic on the waterway during winter months, placing an undue burden on the railroad. The revised regulation establishes the requirement for the bridge to open on signal for vessels between March 16 and November 30 each year. Vessel operators will be required to provide at least 12 hours advance notice for openings between December 1 and March 15 each year. This will allow the bridge to be unmanned during periods of no train traffic and during winter months when there is no navigation.

The Franklin Street bridge is located in a highly congested section of Michigan City, and adjacent to a park area that is visited by a large number of residents and tourists between April 1 and December 1 each year. LaPorte County Highway Dept., acting on behalf of the City of Michigan City, asked the Coast Guard to regulate bridge openings to coincide with the park hours to alleviate vehicular traffic congestion in the area, while still providing for the reasonable needs of navigation. This final rule will require the bridge to open on signal for vessels between March 16 and November 30, except between the hours of 6:15 a.m. and 11:15 p.m., Monday through Sunday, the bridge will only be required to open for vessels three minutes before to three minutes after the quarter-hour and three-quarter hour.

This schedule is believed to provide a reasonable balance between the needs of vessel traffic and vehicular traffic through the two drawbridges in Michigan City Harbor.

Discussion of Comments and Changes

The Coast Guard received no comments to the notice of proposed

rulemaking. No changes will be made to the final rule.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This determination is based on the fact that this rule will not eliminate bridge openings for any vessels, but would only require vessels to pass Franklin Street bridge during scheduled periods throughout the peak navigation season (March 16 to November 30). The bridges will still open between December 1 and March 15 if 12-hour advance notice is provided.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant impact on a substantial number of small entities. ''Small entities'' may include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people.

The Coast Guard certifies under 5 U.S.C 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the low number of small entities identified in the preliminary stages of this rulemaking, and the relatively minor restrictions placed on vessels desiring openings of the bridges.

Collection of Information

This rule calls for no new collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132, and determined that this rule does not have federalism implications under that Order.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 32(e) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This rule changes a drawbridge regulation which has been found not to have a significant effect on the environment. A ''Categorical Exclusion Determination'' is not required.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, the Coast Guard amends Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.401 to read as follows:

§ 117.401 Trail Creek.

(a) The draw of the Franklin Street bridge, mile 0.5 at Michigan City, shall be operated as follows:

(1) From March 16 through November 30, the draw shall open on signal; except from 6:15 a.m. to 11:15 p.m., Monday through Sunday, the draw need open only from three minutes before to three minutes after the quarter-hour and three-quarter hour.

(2) From December 1 through March 15, the draw shall open on signal if at least 12-hours advance notice is provided prior to intended time of passage.

(b) The draw of the Amtrak bridge, mile 0.9 at Michigan City, shall open on signal; except, from December 1 through March 15, the bridge shall open on signal if at least 12-hours advance notice is provided prior to intended time of passage.

(c) Public vessels of the United States, state or local vessels used for public safety, vessels in distress, and vessels seeking shelter from severe weather shall be passed through the draws of each bridge as soon as possible.

Dated: May 7, 2001.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 01–12720 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–01–001]

RIN 2115–AE47

Drawbridge Operation Regulations; Manitowoc River, WI

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On March 6, 2001, we published a direct final rule (66 FR 13433). This direct final rule notified the public of our intent to revise the operating regulations governing the Eighth Street bridge (mile 0.29), Tenth Street bridge (mile 0.43), and the Wisconsin Central (formerly Soo Line) bridge (mile 0.91), on the Manitowoc River. The direct final rule re-established the schedule published in 1983 that was erroneously removed by another rule in 1984. We have not received an adverse comment or notice of intent to submit adverse comment on this rule. Therefore, this rule will go into effect as scheduled.

DATES: The effective date of the direct final rule is confirmed as June 4, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, Ninth Coast Guard District (obr), at (216) 902–6084.

Dated: May 7, 2001.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 01–12722 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–002]

RIN 2115–AA97

Safety Zone: Captain of the Port Detroit Zone

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish safety zones for annual fireworks displays located in the Captain of the Port Detroit Zone. This action will provide for the safety of life and property on navigable waters during each event. This action will restrict vessel traffic in a portion of the Captain of the Port Detroit Zone.

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

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–002 and are available for inspection or copying at, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Avenue, Detroit, MI 48207 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, (313) 568–9580.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 4, 2001, we published a notice of proposed rulemaking (NPRM) entitled ''Safety Zone: Captain of the Port Detroit Zone'', in the **Federal Register** (66 FR 17829). We received no letters commenting on the proposed rule. No public hearing was requested and none was held.

Under 5 U.S.C 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The events listed in this rule have been regularly held on an annual basis with widespread public participation. The Coast Guard has not received any complaints or negative comments previously with regard to these events. Delaying the effective date would be contrary to public interest because events being held in early June would be without an enforceable zone, thus placing the safety and property of spectators at unnecessary risk.

Background and Purpose

The Coast Guard is establishing 23 permanent safety zones that will be activated for fireworks displays occurring annually at the same location. The 23 locations are New Baltimore City Park, Lake St. Clair—Anchor Bay; 1000 yards east of Jefferson Beach Marina, Lake St. Clair; Ford's Cove, Lake St. Clair; the Brownstown Wave Pool, Lake Erie; St. Clair City Park, St. Clair River; DNR Boat Launch at the mouth of the Ausable River; Port Austin Breakwall, Lake Huron; breakwall between Oak & Van Alstyne St., Detroit River; 300 yards east of Grosse Pointe Farms, Lake St. Clair; Caseville breakwall, Saginaw River; between Algonac and Russell Island, St. Clair River—North Channel; South Harbor Breakwall, Lake Huron; 1000 yards east of Veterans Memorial Park, St. Clair Shores, Lake St. Clair; anchored 300 yards east of 223 Huron Ave: Black River; anchored 400 yards east of the Grosse Pointe Yacht Club seawall, Lake St. Clair; 300 yards east of the breakwall at Lexington, Lake Huron; anchored at the northern end of Mud Island, Ecorse Channel; Grosse Ile Yacht Club deck, Detroit River; anchored 200 yards east of Trenton, Trenton Channel; anchored 400 yards east of Belle Maer Harbor, Lake St. Clair—Anchor Bay; Tawas City Pier, Lake Huron; anchored 500 yards east of Marine City, St. Clair River; 600 yards off Jefferson Beach Marina, Lake St. Clair.

Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard associated with these events, the Captain of the Port has determined that fireworks launches in close proximity to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement within a 300 yard radius of the fireworks launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.

Discussion of Comments and Changes

MSO Detroit received no comments or related information pertaining to this rulemaking.

Regulatory Evaluation

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

Small Entities

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

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

This rule will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

These safety zones would not have a significant economic impact on these small entities for the following reasons: The safety zone is only in effect for a

few hours on the day of the event. Because these are annual events, affected entities can plan for any disruptions well in advance of the day of the event. Additionally, vessel traffic can safely pass outside the safety zones during the events. In cases where traffic congestion is greater than expected and blocks shipping channels, traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Detroit.

Before the effective period, the Coast Guard will issue maritime advisories widely available to users who might be in the affected area by publication in the **Federal Register** and the Ninth Coast Guard District Local Notice to Mariners Marine information broadcasts and facsimile broadcasts may also be made. Additionally, the Coast Guard has not received any negative reports from small entities affected during these displays in previous years.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (see **ADDRESSES.**)

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)–(34) of Commandant Instruction M16475.l–C, this rule is categorically excluded from further environmental documentation.

A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.907 to read as follows:

§ 165.907 Safety Zones: Annual fireworks events in the Captain of the Port Detroit Zone.

(a) *Safety Zones.* The following areas are designated safety zones:

(1) *Bay-Rama Fishfly Festival, New Baltimore, MI:*

(i) *Location.* All waters off New Baltimore City Park, Lake St. Clair—Anchor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42°41″ N, 082°44′ W (NAD 1983).

(ii) *Expected date.* One day early in June.

(2) *Jefferson Beach Marina Fireworks, St. Clair Shores, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32′ N, 082°51′ W (NAD 1983), about 1000 yards east of Jefferson Beach Marina.

(ii) *Expected date.* One day in the last week of June.

(3) *Sigma Gamma Assoc., Grosse Pointe Farms, MI:*

(i) *Location.* The waters off Ford's Cove, Lake St. Clair bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°27′ N, 082°52′ W (NAD 1983).

(ii) *Expected date.* One day in the last week of June.

(4) *Lake Erie Metro Park Fireworks:*

(i)Location. The waters off the Brownstown Wave Pool area, Lake Erie bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°03′ N, 083°11′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(5) *City of St. Clair Fireworks:*

(i) *Location.* The waters off St. Clair City Park, St. Clair River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°49′ N, 082°29′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(6) *Oscoda Township Fireworks:*

(i) *Location.* The waters off the DNR Boat Launch at the mouth of the Ausable River bounded by the arc of a

circle with a 300-yard radius with its center in approximate position 44°19′ N, 083°25′ W (NAD 1983).

(ii) *Expected Date.* One day in the first week of July.

(7) *Port Austin Fireworks:*

(i) *Location.* The waters off the Port Austin Breakwall, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°03′ N, 082°40′ W (NAD 1983).

(ii) *Expected Date.* One day in the first week of July.

(8) *City of Wyandotte Fireworks, Wyandotte, MI:*

(i) *Location.* The waters off the breakwall between Oak & Van Alstyne St., Detroit River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 42°12′ N, 083°09′W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(9) *Grosse Pointe Farms Fireworks, Grosse Pointe Farms, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°23′ N, 082°52′ W (NAD 1983), about 300 yards east of Grosse Pointe Farms.

(ii) *Expected date.* One day in the first week of July.

(10) *Caseville Fireworks, Caseville, MI:*

(i) *Location.* The waters off the Caseville breakwall, Saginaw River bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°55′ N, 083°17′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(11) *Algonac Pickerel Tournament Fireworks, Algonac, MI:*

(i) *Location.* All waters of the St. Clair River within a 300-yard radius of the fireworks barge in approximate position 42°37′ N, 082°32′ W (NAD 1983), between Algonac and Russell Island, St. Clair River—North Channel.

(ii) *Expected date.* One day in the first week of July.

(12) *Port Sanilac Fireworks, Port Sanilac, MI:*

(i) *Location.* The waters off the South Harbor Breakwall, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°25′ N, 082°31′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(13) *St. Clair Shores Fireworks, St. Clair Shores, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°32′ N, 082°51′ W (NAD 1983), about 1000 yards east of Veterans Memorial Park (off Masonic Rd.), St. Clair Shores.

(ii) *Expected date.* One day in the first week of July.

(14) *Port Huron 4th of July Fireworks, Port Huron, MI:*

(i) *Location.* All waters of the Black River within a 300-yard radius of the fireworks barge in approximate position 42°58′ N, 082°25′ W (NAD 1983), about 300 yards east of 223 Huron Ave., Black River.

(ii) *Expected date.* One day in the first week of July.

(15) *Grosse Pointe Yacht Club 4th of July Fireworks, Grosse Pointe Shores, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°25′ N, 082°52′ W (NAD 1983), about 400 yards east of the Grosse Pointe Yacht Club seawall, Lake St. Clair.

(ii) *Expected date.* One day in the first week of July.

(16) *Lexington Independence Festival Fireworks, Lexington, MI:*

(i) *Location.* All waters of Lake Huron within a 300-yard radius of the fireworks barge in approximate position 43°13′ N, 082°30′ W (NAD 1983), about 300 yards east of the Lexington breakwall, Lake Huron.

(ii) *Expected date.* One day in the first week of July.

(17) *City of Ecorse Water Festival Fireworks, Ecorse, MI:*

(i) Location. All waters of the Ecorse Channel within a 300-yard radius of the fireworks barge in approximate position 42°14′ N, 083°09″ W (NAD 1983), at the northern end of Mud Island, Ecorse.

(ii) *Expected date.* One day in the first week of July.

(18) *Grosse Ile Yacht Club Fireworks:*

(i) *Location.* The waters off the Grosse Ile Yacht Club Deck, Detroit River bounded by the arc of a circle with a 300-yard radius with its center approximately located at latitude 42°05′ N, 083°09′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(19) *Trenton Fireworks Display, Trenton, MI:*

(i) *Location.* All waters of the Trenton Channel within a 300-yard radius of the fireworks barge in approximate position 42°09′ N, 083°10′ W (NAD 1983), about 200 yards east of Trenton, in the Trenton Channel.

(ii) *Expected date.* One day in the first week of July.

(20) *Belle Maer Harbor 4th of July Fireworks, Harrison Township, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°36′ N, 082°47′ W (NAD 1983), about 400 yards east of Belle Maer Harbor, Lake St. Clair—Anchor Bay.

(ii) *Expected date.* One day in the first week of July.

(21) *Tawas City 4th of July Fireworks, Tawas, MI:*

(i) *Location.* The waters off the Tawas City Pier, Lake Huron bounded by the arc of a circle with a 300-yard radius with its center in approximate position 44°13′ N, 083°30′ W (NAD 1983).

(ii) *Expected date.* One day in the first week of July.

(22) *Maritime Day Fireworks, Marine City, MI:*

(i) *Location.* All waters of the St. Clair River within a 300-yard radius of the fireworks barge in approximate position 42°43′ N, 082°29′ W (NAD 1983), about 500 yards east of Marine City, St. Clair River.

(ii) *Expected date.* One day in the second weekend of August.

(23) *Venetian Festival Boat Parade & Fireworks, St. Clair Shores, MI:*

(i) *Location.* All waters of Lake St. Clair within a 300-yard radius of the fireworks barge in approximate position 42°28′ N, 082°52′ W (NAD 1983), about 600 yards off Jefferson Beach Marina, Lake St. Clair.

(ii) *Expected date.* One day in the second weekend of August.

(b) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) The safety zones in this regulation are outside navigation channels and will not adversely affect shipping. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Detroit to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Detroit on Channel 16, VHF–FM.

(c) *Effective period.* The Captain of the Port Detroit will publish a Notice of Implementation in the **Federal Register** as well as in the Ninth Coast Guard District Local Notice to Mariners the dates and times this section is in effect.

Dated: May 9, 2001.

S.P. Garrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 01–12718 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 094–0027a; FRL–6916–2]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Coconino County, Mohave County, and Yuma County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Coconino County, Mohave County, and Yuma County portions of the Arizona State Implementation Plan (SIP). These revisions concern the recision of all of the remaining defunct SIP rules from these counties. We are approving the recision of local rules that no longer regulate permitting procedures and various emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 20, 2001 without further notice, unless EPA receives adverse comments by June 20, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

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

You may inspect the submittal documents and our technical support documents (TSDs) at our Region IX office during normal business hours. You may also go to the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used, we mean EPA.

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit for Recision?

The Coconino County rules submitted for recision are listed in Table 1. These rules were previously approved for incorporation into the Arizona SIP on November 15, 1978 (43 FR 53031). The replacement ADEQ rules are listed where applicable. Other justifications for recision are noted.

TABLE 1.—COCONINO COUNTY RULES FOR RECISION

Rule No.	Rule title	Replacement ADEQ SIP rule number
12–1–1	Legal Authority	(Note 1).
12–1–2	Definitions	R9–3–101.
12–1–3	Air Pollution Prohibited	(Note 1).
12–2–2	Operating Permits	R9–3–301.
12–2–4	Permit Fees	(Note 1).
12–2–5	Permit Renewals	(Note 1).
12–2–7	Testing of Installations	R9–3–313.
12–2–8	Compliance with Terms of Installation Permit	R9–3–318.
12–2–9	Notification of Denial of Permit	(Note 1).
12–2–10	Appeals to the Hearing Board	(Note 1).
12–2–11	Permits Not Transferable	R9–3–317.
12–2–12	Expiration of Installation Permit	(Note 1).
12–2–13	Posting of Permits	R9–3–315.
12–3–1	Ambient Air Quality Standards	R9–3–201, 202, 204, 205, 206, 207.
12–3–3	Reporting of Emissions	R9–3–314.
12–3–4	Production of Records: Confidentiality	R9–3–305.
12–3–5	Monitoring Devices	R9–3–306.
12–3–6	Penalty for Violation	(Note 1).
12–4–1	Shade, Density, or Opacity of Emissions	R9–3–501.
12–4–2	Dust Control	R9–3–404, 405.
12–4–3	Processing of Animal or Vegetable Matter	(Note 1).
12–4–4	Volatile and Odorous Materials	(Note 1).
12–4–5	Storage and Handling of Petroleum Products	R9–3–510.
12–5–1	Permit Required	R9–3–301.
12–5–2	Performance Tests: Permit Tags	R9–3–306, 312(G).
12–5–3	Emission Limitations	(Note 2).
12–5–4	Authority of Other Public Agencies	(Note 1).
12–6–1	Unlawful Open Burning	R9–3–402.
12–6–2	Exceptions Requiring No Permission	R9–3–402.
12–6–3	Exceptions Requiring Permission	R9–3–402 (Note 2).
12–6–4	Exceptions Under Special Circumstances	R9–3–402.

TABLE 1.—COCONINO COUNTY RULES FOR RECISION—Continued

Rule No.	Rule title	Replacement ADEQ SIP rule number
12–7–1	Misdemeanor: Penalty	(Note 1).

The Mohave County rules submitted for recision are listed in Table 2. These rules were previously approved for incorporation into the Arizona SIP on November 15, 1978 (43 FR 53031). The replacement ADEQ rules are listed where applicable. Other justifications for recision are noted.

TABLE 2.—MOHAVE COUNTY RULES FOR RECISION

Rule No.	Rule title	Replacement ADEQ SIP rule number
1–1	Policy and Legal Authority	(Note 1).
1–2	Definitions	R9–3–101.
1–3	Air Pollution Prohibited	(Note 1).
1–4	Enforcement	(Note 1).
2–1	Shade, Density, or Opacity of Emissions	R9–3–501.
2–2	Particulate Matter	R9–3–404, 405.
2–3	Reduction of Animal or Vegetable Matter	(Note 1).
2–4	Evaporation and Leakage	R9–3–502(D).
2–5	Storage Tanks	R9–3–510.
3–1	Particulate Matter from Fuel-Burning Installations	R9–3–524.
3–2	Particulate Matter from Other Sources	R9–3–502.
3–6	Incinerators	R9–3–504 (Note 2).
4–1	Responsibility of Testing	R9–3–312.
4–2	Requirements of Testing	R9–3–312.
5–1	Prohibition and Exceptions	R9–3–402 (Note 2).
6–1	Sulfur Dioxide	R9–3–202.
6–2	Non-Specific Particlulate	R9–3–201.
6–3	Evaluation	(Note 1).
6–4	Anti-Degradation	(Note 1).
7	Violations	R9–3–218.

The Yuma County rules submitted for recision are listed in Tables 3 and 4. These rules were previously approved for incorporation into the Arizona SIP on November 15, 1978 (43 FR 53031) and on April 12, 1982 (47 FR 15580), respectively. The replacement ADEQ rules are listed where applicable. Other justifications for recision are noted.

TABLE 3.—YUMA COUNTY RULES (PREVIOUSLY APPROVED NOVEMBER 15, 1978) FOR RECISION

Rule No.	Rule title	Replacement ADEQ SIP rule number
8–1–1.1	Policy and Legal Authority	(Note 1).
8–1–2.7	Evaluation	R9–3–216.
8–1–2.10	Emergency Episode Criteria	R9–3–219.
8–1–4.2	Fuel Burning Installations	R9–3–503.
8–1–4.3	Sulfur Emissions—Sulfite Pulp Mills	(Note 2).
8–1–4.4	Sulfur Emissions—Sulfuric Acid Plants	R9–3–507.
8–1–4.5	Sulfur Emissions—Other Industries	(Note 2).
8–1–5.1	Storage of Volatile Organic Compounds	R9–3–510.
8–1–5.2	Loading of Volatile Organic Compounds	R9–3–510.
8–1–5.3	Pumps and Compressors	R9–3–510.
8–1–5.4	Organic Solvents; Other Volatile Compounds	R9–3–502(D).
8–1–6.1	CO Emissions from Stationary Sources—Industrial	R9–3–502(G).
8–1–7.1	NO_2 Emissions—Fuel Burning Equipment	R9–3–503(C).
8–1–7.2	NO_2 Emissions—Nitric Acid Plants	R9–3–506.
8–1–8.1	Open Burning—Prohibitions	R9–3–402.
8–1–8.2	Open Burning—Exceptions	R9–3–402.

TABLE 4.—YUMA COUNTY RULES (PREVIOUSLY APPROVED APRIL 12, 1982) FOR RECISION

Rule No.	Rule title	Replacement ADEQ SIP rule number
8–1–1.2	Definitions	R9–3–101.
8–1–1.3	Air Pollution Prohibited	(Note 1).
8–1–1.4	Enforcement	(Note 1).
8–1–1.5	Violations	(Note 1).
8–1–1.6	Penalties	(Note 1).
8–1–1.8	Permits, Exceptions Applications: Fees	R9–3–302, 304.

TABLE 4.—YUMA COUNTY RULES (PREVIOUSLY APPROVED APRIL 12, 1982) FOR RECISION—Continued

Rule No.	Rule title	Replacement ADEQ SIP rule number
8–1–1.9	Posting of Permit	R9–3–315.
8–1–1.10	Notice by Building Permit Agencies	R9–3–316.
8–1–1.11	Permit Nontransferable: Exception	R9–3–317.
8–1–1.12	Recordkeeping and Reporting	R9–3–314.
8–1–1.13	Emissions Test Methods and Procedures	R9–3–311.
8–1–2.1	Non-specific Particulate	R9–3–201.
8–1–2.2	Sulfur Dioxide	R9–3–202.
8–1–2.3	Non-Methane Hydrocarbons	(Note 1).
8–1–2.4	Photochemical Oxidants	R9–3–204.
8–1–2.5	Carbon Monoxide	R9–3–205.
8–1–2.6	Nitrogen Dioxide	R9–3–206.
8–1–2.8	Anti-Degradation	(Note 1).
8–1–3.1	Visible Emissions: General	R9–3–410, 501.
8–1–3.2	Emissions from Existing and New Non-Point Sources: General	R9–3–401.
8–1–3.3	Open Burning	R9–3–402.
8–1–3.4	Criteria for Establishing Burn Hours	R9–3–402.
8–1–3.5	Fugitive Dust and Particulate Matter	R9–3–404, 405, 406, 409.
8–1–3.6	Evaluation of Non-Point Source Emissions	R9–3–410.
8–1–3.7	Existing Point Source Performance Standards: General Unclassified Sources	R9–3–502.
8–1–3.8	Standards of Performance for Existing Fossil-Fuel Fired Steam Generators and General Fuel Burning Equipment.	R9–3–503.
8–1–3.9	Incinerators	R9–3–504.
8–1–3.10	Standards of Performance for Existing Asphalt Concrete Plants	R9–3–508.
8–1–3.11	Petroleum Storage	R9–3–510.
8–1–3.12	Standards of Performance for Steel Plants: Existing Arc Furnace	R9–3–517 (Note 2).
8–1–3.13	Standards of Performance for Existing Stationary Rotating Machinery	R9–3–519 (Note 2).
8–1–3.14	Standards of Performance for Existing Gravel and Crushed Stone Processing Plants	R9–3–522.
8–1–3.15	Existing Concrete Batch Plants	R9–3–523.
8–1–3.16	Standards of Performance for Existing Fossil-Fuel Fired Industrial and Commercial Equipment	R9–3–524.
8–1–3.17	Existing Dry Cleaning Plants	R9–3–525.
8–1–3.18	Sandblasting Equipment	R9–3–526.
8–1–3.19	Spray Painting Operations	R9–3–527.
8–1–3.20	Asphalt or Tar Kettles	R9–3–605.
Appendix I	Fuel Burning Equipment Schedule	(Note 3).
Appendix II	Allowable Particulate Emissions Computations	(Note 3).

Notes for Tables 1, 2, 3, and 4:

1. Designates a rule that we determined to be not appropriate for inclusion in the SIP, because it is unenforceable, replaced by a federal standard, refers solely to non-criteria pollutants, or refers to local procedural matters, such as those concerning assessment of fees, enforcement, issuance of permits, and local hearing board procedures.

2. Designates a rule without an exact parallel ADEQ SIP rule, for which a demonstration was provided by the ADEQ to show that rescinding the rule is consistent with section 110(l) of the CAA regarding rule relaxations.

3. Designates a rule not submitted for recision by ADEQ. We are removing the rule pursuant to our authority under section 110(k)(6) of the CAA, because it is not appropriate for inclusion in the SIP, removing the rule will not affect emissions, and we are correcting the error of previously incorporating the rule into the SIP.

On July 26, 2000, we found that these rule recision submittals meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of the Recision Submittals?

There are no previous recision submittals on which we have not acted.

C. What is the Purpose of the Recision Submittals?

The Coconino County, Mohave County, and Yuma County originally adopted a set of air pollution control rules that we approved into the Arizona SIP. These counties later dissolved their air pollution control districts and elected to have the ADEQ administer Arizona state rules in their counties. The remaining SIP rules in the individual counties are defunct and not used to enforce air regulations in those counties. All remaining SIP rules in these counties are rescinded by this action.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Recision Submittals?

Generally, the recision of SIP rules must not relax existing requirements of the SIP. Sections 110(l) and 193 of the CAA. If requirements are relaxed, the ADEQ must demonstrate that the modifications do not interfere with attainment of the NAAQS or otherwise violate sections 110(l) or 193.

B. Do the Recision Submittals Meet the Evaluation Criteria?

We believe the recision submittals are consistent with the CAA and relevant policy and guidance regarding SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action.

As authorized in section 110(k)(3) and 110(k)(6) of the CAA, we are approving the recision submittals, because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same recision submittal. If we receive adverse comments by June 20, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we

do not receive timely adverse comments, the direct final recision will be effective without further notice on July 20, 2001. This will remove the rules from the federally enforceable SIP.

III. Background Information

Why Were These Rules Originally Approved Into the SIP?

The rules regulate some of the seven criteria pollutants, which harm human health and the environment, and regulate permitting procedures for control of these pollutants. Section 110(a) of the CAA required states to submit regulations that control the emission of these pollutants.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as 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 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compound.

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

Dated: September 8, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(18)(i)(B), (c)(18)(ii)(A), (c)(18)(iii)(A), and (c)(35)(i)(B) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(18) * * *

(i) * * *

(B) Previously approved on November 15, 1978 in paragraph (i) of this section and now deleted without replacement Rules 12–1–1 through 12–1–3, 12–2–2, 12–2–4, 12–2–5, 12–2–7 through 12–2–13, 12–3–1, 12–3–3 through 12–3–6, 12–4–1 through 12–4–5, 12–5–1 through 12–5–4, 12–6–1 through 12–6–4, and 12–7–1.

(ii) * * *

(A) Previously approved on November 15, 1978 in paragraph (ii) of this section and now deleted without replacement Rules 1–1 through 1–4, 2–1 through 2–5, 3–1, 3–2, 3–6, 4–1, 4–2, 5–1, 6–1 through 6–4, and 7.

(iii) * * *

(A) Previously approved on November 15, 1978 in paragraph (iii) of this section and now deleted without replacement Rules 8–1–1.1, 8–1–2.7, 8–1–2.10, 8–1–4.2 through 8–1–4.5, 8–1–5.1 through 8–1–5.4, 8–1–6.1, 8–1–7.1, 8–1–7.2, 8–1–8.1, and 8–1–8.2.

* * * * *

(35) * * *

(i) * * *

(B) Previously approved on April 12, 1982 in paragraph (i)(A) of this section and now deleted without replacement Rules 8–1–1.2 through 8–1–1.6, 8–1–1.8 through 8–1–1.13, 8–1–2.1 through 8–1–

2.6, 8–1–2.8, 8–1–3.1 through 8–1–3.20, Appendix I, and Appendix II.

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[Editorial note: This document was received at the Office of the Federal Register on May 15, 2001.]

[FR Doc. 01–12572 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA157–4112a; FRL–6981–5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Stage II Vapor Recovery Regulations for Southwest Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Commonwealth of Pennsylvania State Implementation Plan which were submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection (PADEP). These revisions modify and clarify the existing regulatory requirements for the control of volatile organic compounds (VOCs) from gasoline dispensing facilities (Stage II) in the Pittsburgh-Beaver Valley ozone nonattainment area. The revisions modify the compliance dates and make other technical amendments. EPA is approving these revisions to the Commonwealth of Pennsylvania's SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on July 5, 2001 without further notice, unless EPA receives adverse written comment by June 20, 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 should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. You may inspect copies of the documents relevant to this action during normal business hours at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, Project Officer, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the SIP Revision and EPA's Action

The information in this section is organized as follows:

A. What Action Is EPA Taking Today?
B. Why Is EPA Taking This Action?
C. How Did EPA Review the Commonwealth's Submittal?
D. Why Is the Request Approvable?
E. What Is the Process for EPA Approval of This Action?

A. What Action Is EPA Taking Today?

EPA is approving revisions to the Commonwealth of Pennsylvania SIP which were submitted on March 6, 2000 by PADEP. These revisions amend the existing Stage II regulatory requirements of 25 PA Code, Chapter 129, Standards for Sources, section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II), for the Pittsburgh-Beaver Valley ozone nonattainment area. Specifically, the revisions incorporate revised compliance dates for the Pittsburgh-Beaver Valley ozone nonattainment area, and make other technical amendments. The revised Stage II compliance dates are as follows: (1) For facilities for which construction was commenced after April 1, 1997, compliance shall be achieved at the time of the opening of the gasoline dispensing facility, (2) for facilities which dispense greater than or equal to 120,000 gallons of gasoline per month, based on average monthly sales during calendar years 1995 and 1996, compliance shall be achieved by July 1, 1999; and (3) for facilities which dispense greater than 90,000 gallons per month but less than 120,000 gallons per month based on average monthly sales during calendar years 1995 and 1996 compliance shall be achieved by December 31, 2000. Other revisions include subsection (d) which provides that if the onboard canister refueling emissions control program has been fully implemented by 2010, the Stage II systems will no longer be required in the area. Finally, subsection (e) establishes the functional testing and certification requirements consistent with EPA's regulations.

B. Why Is EPA Taking This Action?

EPA is approving these SIP revisions to the Commonwealth of Pennsylvania SIP at the request of PADEP. The Commonwealth revised the Stage II VOC control requirements for Southwest Pennsylvania based upon the recommendations of the Southwest Pennsylvania Ozone Stakeholder Working Group as part of its ongoing efforts to address ozone air quality issues in the Pittsburgh-Beaver Valley ozone nonattainment area. EPA is approving these revisions as necessary for attainment and maintenance of the ozone standard in Southwest Pennsylvania.

C. How Did EPA Review the Commonwealth's Submittal?

The Commonwealth of Pennsylvania's SIP revisions were submitted by PADEP on March 6, 2000. EPA evaluated the Commonwealth's revised Stage II requirements for Southwest Pennsylvania to verify that the revisions were consistent with the previously approved Stage II regulations for the Commonwealth and met the requirements found in EPA's Stage II enforcement and technical documentation. The revisions were also reviewed for compliance with the CAA.

D. Why Is the Request Approvable?

This request is approvable because it meets the requirements of EPA's applicable technical and enforcement guidance and the CAA.

E. What Is the Process for EPA Approval of This Action?

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective on July 5, 2001 without further notice unless EPA receives adverse comment by June 20, 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.

II. Final Action

EPA is approving revisions to the Commonwealth of Pennsylvania SIP, which were submitted on March 6, 2000 by PADEP. These revisions will revise 25 PA Code section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II) for Southwest Pennsylvania.

III. What Are the 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 (Public Law 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 action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 2001. Filing a petition for reconsideration by the Administrator of this final rule approving revisions to the Commonwealth's Stage II regulations for Southwest Pennsylvania 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, Ozone, Reporting and recordkeeping requirements.

Dated: May 1, 2001.

William 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 52.2020 is amended by adding paragraphs (c)(153) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(153) Revisions to the Commonwealth of Pennsylvania Regulations pertaining to Stage II VOC control requirements for Southwest Pennsylvania submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting the revisions to the Stage II VOC control requirements for Southwest Pennsylvania.

(B) Revisions to 25 PA Code, Chapter 129, Standards for Sources at section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II). These revisions became effective on April 10, 1999.

(ii) Additional Material—Remainder of March 6, 2000 submittal.

[FR Doc. 01–12574 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6978–5]

RIN 2060–AF30

National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes national emission standards for hazardous air pollutants (NESHAP) for the nutritional yeast manufacturing source category. The EPA has identified the nutritional yeast manufacturing source category as a major source of hazardous air pollutants (HAP) emissions of acetaldehyde. These standards implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). These final standards will eliminate approximately 13 percent of nationwide acetaldehyde emissions from these sources. Acute (short term) and chronic (long term) inhalation exposure to acetaldehyde is associated with adverse health effects including irritation of the eyes, skin, and respiratory tract. Acetaldehyde is a potential developmental toxin and a probable human carcinogen.

EFFECTIVE DATE: May 21, 2001.

ADDRESSES: Docket No. A–97–13 contains supporting information used in developing the standards for the nutritional yeast manufacturing source category. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David W. Markwordt, Policy, Planning, and Standards Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0837, facsimile (919) 541–0942, electronic mail address: *markwordt.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through the EPA's Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules, *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated entities. Categories and entities potentially affected by this action include:

Category	SIC[a]	NAICS[b]	Regulated entities
Industry	2099	311999	Manufacturers of varieties of *Saccharomyces cerevisiae* nutritional yeast made for the purpose of becoming an ingredient in dough for bread or other yeast-raised baked product, and for becoming a nutritional food additive.

[a] Standard Industrial Classification
[b] North American Industry Classification System

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.2131 of the final rule.

Judicial Review. Under section 307(b) of the CAA, judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by July 20, 2001. Under section 307(d)(7)(B) of the CAA, only an objection to this rule which was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

I. Background

A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Major sources of HAP are those that have the potential to emit greater than

9 Megagrams per year (Mg/yr) (10 tons per year (tpy)) of any one HAP or 23 Mg/yr (25 tpy) of any combination of HAP. The ''baker's yeast manufacturing'' source category was listed as a major source of HAP on the initial source category list published in the **Federal Register** on July 16, 1992 (57 FR 31576). We changed the name of the source category to ''manufacturing of nutritional yeast'' in order to clarify the scope of the rule and distinguish it as not including the regulation of bakeries.

B. What Criteria Do We Use in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source.

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy impacts.

II. What Are the HAP Emissions and Health Effects Associated With the HAP Emitted?

The HAP emitted from the nutritional yeast manufacturing process is acetaldehyde. We have estimated the annual acetaldehyde emissions from the manufacture of nutritional yeast to be approximately 220 Mg/yr (240 tpy).

Acetaldehyde acute (short term) exposure is associated with irritation of the eyes, skin, and respiratory tract. Acute inhalation of high concentrations of acetaldehyde can cause respiratory paralysis and death. Animal acetaldehyde exposure studies indicate that acetaldehyde may also be a developmental toxin. Rats and hamsters with chronic (long-term) exposure to acetaldehyde have an increased incidence of nasal and laryngeal tumors. Based on animal studies, we have classified acetaldehyde as a probable human carcinogen of low carcinogenic hazard.

III. What Are the Final Standards?

A. What Is the Source Category?

We have defined the nutritional yeast manufacturing source category to include facilities that manufacture varieties of *Saccharomyces cerevisiae* (also referred to as nutritional yeast, or baker's yeast) that are made for the purpose of becoming an ingredient in dough for bread or other yeast-raised baked products, or for becoming a nutritional food additive intended for consumption by humans. The nutritional yeast manufacturing source category does not include the production of yeast intended for consumption by animals (for example, as an additive for livestock feed).

B. What Is the Affected Source?

We have defined the nutritional yeast manufacturing affected source as including the collection of equipment used in the manufacture of nutritional yeast species *Saccharomyces cerevisiae.* This collection of equipment includes, but is not limited to, fermentation vessels (fermenters). We have not included the collection of equipment used in the manufacture of nutritional yeast species *Candida utilis* (torula yeast) as part of the affected source.

C. What Are the Emission Limits?

For existing and new sources, we are requiring that you meet volatile organic compound (VOC) emission limits as a surrogate for acetaldehyde, which makes up a portion of the total VOC emitted. The emission limitations include both VOC concentration limits and a percent-of-batches requirement. The concentration limits apply to each batch; they are expressed as the VOC concentration averaged over the duration of a batch. The fermentation stage of each batch determines which one of three VOC concentration limits is applicable to that batch. To meet the percent-of-batches requirement, you must ensure that at least 98 percent of batches on a rolling 12-month average are within-concentration batches. (We define a ''within-concentration batch'' as a batch for which the average VOC concentration is not higher than the maximum concentration that is allowed as the 98 percent emission limitation.)

D. What Are the Testing and Initial and Continuous Compliance Requirements?

To demonstrate compliance with the VOC emission limits specified in the rule, we require that you monitor either the VOC concentration in the fermenter exhaust or the brew ethanol concentration in the fermenter. (We define ''brew ethanol'' as the ethanol in the fermenter liquid.)

If you monitor brew ethanol, you must conduct performance tests simultaneously with brew ethanol monitoring to establish a brew-to-exhaust correlation. (The ''brew-to-exhaust correlation'' is the correlation between the concentration of ethanol in the brew and the concentration of VOC in the fermenter exhaust.)

If you monitor fermenter exhaust, you must ensure that at least 98 percent of batches over the initial compliance period are within-concentration batches to demonstrate initial compliance with the emission limitations.

If you monitor brew ethanol, you must ensure that the VOC fermenter exhaust concentration over the period of your performance test does not exceed the applicable maximum concentration. You must also have a record of the brew-to-exhaust correlation during the performance test while the VOC fermenter exhaust concentration is at or below the applicable maximum concentration.

To demonstrate continuous compliance with the emission limitations, you must report the percentage of batches that are within-concentration batches, based on a 12-month rolling time period. Your continuous emission monitoring system (CEMS) must be operated at all times during a fermentation batch monitoring period. If you monitor brew ethanol, you must correlate the brew ethanol concentration measured by the CEMS, by testing, to the VOC concentration in the fermenter exhaust. The brew-to-exhaust correlation will determine the brew ethanol concentration CEMS compliance monitoring limit. You are required to determine this correlation at least once a year.

E. What Are the Notification, Recordkeeping, and Reporting Requirements?

We require owners or operators of nutritional yeast manufacturing affected sources to which the final rule applies to submit the following: (1) Application for Approval of Construction or Reconstruction, (2) Notification of Compliance Status, (3) Compliance Reports, and (4) Immediate Malfunction Reports. Additionally, if an owner or

operator intends to conduct a performance evaluation or performance test, we require notification of such intent. Records of reported information and other information necessary to document compliance (*e.g.,* records related to malfunction, records that show continuous compliance with emission limits) must be maintained for 5 years.

As soon as practicable before construction begins, you must submit an application for approval of construction of a new major affected source, reconstruction of a major affected source, or reconstruction of a major source such that the source becomes a major affected source subject to the rule. You must submit a separate application for each construction or reconstruction. You must submit at least your name and address, the details regarding your intent to construct or reconstruct, the address of the proposed construction or reconstruction, identification of the standard(s) that are the basis for the application, the expected commencement and completion of the construction or reconstruction, the anticipated date of startup of the source, and the type and quantity of HAP that are anticipated by the source.

You must provide us with a one-time notification of compliance with the final rule. It must describe how you are compliant with the rule, including results of initial compliance determination, identification of the method to be used to determine continuing compliance, and description of the air pollution control method employed.

You must report on your continued compliance status semiannually. This report must include your calculated percentage of within-concentration batches for 12-month calculation periods ending on each calendar month that falls within the reporting period. If you had a malfunction during the reporting period and you took actions as specified in your malfunction plan, you must include that information in the Compliance Report (CR).

If you have a malfunction during the reporting period that is not specified in your malfunction plan, you must submit an Immediate Malfunction Report. This report consists of a telephone call (or facsimile (FAX) transmission) to the Administrator within 2 working days after starting actions that are not included with your plan and shall describe the actions taken during the malfunction event, followed by a letter within 7 working days after the end of the event. If you intend to conduct a performance evaluation or performance test, you are required to submit a notification of such intent at least 60 days prior to the evaluation or test.

IV. What Major Changes Have We Made to the Rule Since Proposal?

In response to comments received on the proposed standards, we made several changes to the final rule. While some of the changes we made were clarifications designed to make our intentions clearer, some of the changes are changes to the proposed standard requirements. The substantive comments and/or changes and responses made since the proposal are summarized in the following sections. Our complete responses to public comments are contained in a memorandum that can be obtained from the docket (see **ADDRESSES** section).

A. Regulation Format

We have changed the regulatory format of the rule from what was proposed on October 19, 1998 (63 FR 55812) to improve implementation, permitting, and enforcement of the rule. The new format also improves the interface with the 40 CFR part 63 General Provisions which are cross-referenced in the proposed and final rule. Although the overall format of the final rule differs from the format of the proposal, unless noted in another paragraph of this section, the requirements are the same. We believe that the new format increases the clarity of the requirements and eases the implementation burden of the rule for both the regulated entity and enforcing agency.

B. Emission Limit Standard

We proposed two sets of emission limits and associated requirements for the nutritional yeast manufacturing source category. Both sets of emission limits potentially represented MACT. One set, which we referred to in the proposal preamble as the ''Reasonably Available Control Technology (RACT) standard,'' relies on the concentration-based limits used in Wisconsin's and Maryland's RACT rules. The second set, which we referred to in the proposal preamble as the ''Presumptive MACT (PMACT) standard,'' relies on a production-based format, which is the same format we considered in the 1994 PMACT.

Two commenters supported the use of the PMACT standard option, and two commenters supported the retention of both options in the final rule. Two of the commenters supported the PMACT standard option because they objected to the proposed RACT option's air flow measurement requirement and air flow cap. One of the commenters added that they would only support the PMACT option if the production-linked emission factor compliance requirement was to be kept confidential.

One of the commenters that recommended retaining both options in the final rule stated that they would prefer the RACT option over the PMACT option if the concentration limits were expressed in terms of propane and the air flow limitation was removed.

Based on comments received and further evaluation of these two options, we decided to adopt the RACT standard option, without the air flow cap, in the final rule because it offers a direct measure of compliance, does not require calculations based on confidential production data, and is simpler as well as easier to use and enforce than the PMACT standard option. Additionally, as noted at proposal, we have more data to support the RACT option. We have selected the RACT standard option because we also believe it better reflects existing control technology performance, operation, and batch emissions variability.

C. No Wastewater Requirements

At proposal, we solicited comment on regulating wastewater and what would constitute MACT for nutritional yeast manufacturing facilities. We received three comment letters that argued against the regulation of wastewater emissions of acetaldehyde at nutritional yeast manufacturing facilities. Reasons given for not regulating wastewater emissions include that the cost of monitoring and control of emissions of acetaldehyde would be high, that emissions from wastewater of acetaldehyde are insignificant, and that treatment might increase emissions of other air pollutants.

Based on comments received and further analysis of wastewater acetaldehyde emissions from nutritional yeast manufacturing facilities, we concluded that the MACT floor for wastewater emissions is no control. We then considered going beyond the floor and determined that non-air quality health and environmental impacts, energy impacts, and costs to go beyond the floor are unreasonably high (Docket No. A–97–13).

The amount of acetaldehyde in the wastewater is a function of the acetaldehyde generated during the yeast fermentation process. Acetaldehyde is a by-product of the fermentation process. Emission limits on the fermentation process result in lower air emissions from the fermentation tanks. To achieve the emission limits, facilities must regulate the yeast growth by process

control of sugar and oxygen to the yeast. This process control also results in lower concentrations of acetaldehyde in the wastewater and subsequently lower air emissions from wastewater. Thus, levels of acetaldehyde in wastewater are already reduced by process changes upstream of wastewater management operations (which process controls constitute MACT for those operations). Put another way, achieving the upstream standards also controls acetaldehyde in wastewater. The standard of ''no control'' in the final rule for wastewater operations thus means no additional control beyond that already afforded through the upstream standards.

Further control of wastewater emissions is achievable through use of add-on emission control technologies. No such controls are currently utilized, so that any such control would be a beyond-the-floor standard. Given the small concentrations of acetaldehyde remaining in wastewater, EPA believes any such controls would not be cost effective. In addition, there are no non-air quality impact or energy considerations that would suggest adopting such beyond-the-floor controls (which would require additional energy to operate and generate a waste stream for disposal). Therefore, we do not require control of emissions of acetaldehyde from wastewater in the final rule.

D. Brew Ethanol Monitoring

One commenter requested that the measurement of ethanol in fermenter liquid be allowed as an alternative to measurement of VOC in fermenter offgas. The commenter supplied information to us that indicated a strong correlation between the brew ethanol concentration in the fermenter liquid and the VOC concentration in the fermenter exhaust. Upon evaluation of the commenter's documentation and our own analysis, we agreed that the correlation between brew ethanol and VOC concentration from the fermenter exhaust is sufficiently strong to allow monitoring of brew ethanol as an alternative to monitoring VOC concentration. Therefore, the final rule explicitly allows for the measurement of brew ethanol as an alternative monitoring method.

E. MACT Requirements

Some commenters expressed that surrogate VOC concentration limits should be established based on what is achievable in practice. Nutritional yeast manufacturing facilities currently subject to RACT standards or RACT-like standards represent the best-controlled sources for the nutritional yeast manufacturing source category (Docket No. A–97–13). Some States with RACT or RACT-like standards apply discretion as to whether a concentration limit that is exceeded results in a violation of the standard (a VOC concentration limit is exceeded if the batch-average concentration exceeds the specified limit). For example, Maryland's continuous emissions monitoring policy allows for one VOC concentration limit exceedance, or occurrence, per facility per quarter.

We did not receive any comments that supported lowering MACT concentration limits from RACT concentration limits. One commenter stated that although most batches display batch-average VOC concentrations below the RACT limits due to the natural variability of the biological process of yeast-growing, batch-average VOC concentrations display a bell-curve distribution. The commenter added that because of the bell-curve distribution of VOC concentrations, a source needs to target VOC concentrations well below the RACT limit in order for the distribution of actual concentrations to remain below the RACT limit.

We analyzed available information for five yeast manufacturing facilities that are subject to Wisconsin or Maryland RACT standards or California Bay Area Air Quality Management District (BAAQMD) RACT-like concentration limits. Based on our analysis, we found that these facilities had concentration limits that were exceeded for 0 to 2.5 percent of their runs, with an average of 1.3 percent of the concentration limits being exceeded for the total number of runs in 1998. Only one facility had no concentration limits that were exceeded (Docket No. A–97–13).

There is no evidence that failure to meet the limit for every batch is a result of poor operation. We do not have sufficient data to indicate that the RACT limits can be achieved on every batch, so we have concluded that the MACT floor for the nutritional yeast manufacturing source category, for existing and new sources, is less stringent than meeting the RACT limits for every batch (Docket No. A–97–13). Therefore, we have concluded that MACT is the control of 98 percent of the batches to either at or below the VOC concentration limits specified in the rule.

F. Compliance Requirements

Many comments were received regarding compliance requirements. Some commenters requested that the final rule clarify the compliance period over which the concentration limits are to be met. Other commenters stated that the proposed concentration limit for VOC (as ethanol) under the RACT standard option was based on an incorrect conversion of VOC to an ethanol basis from the propane basis that is used in the RACT rules.

We agree that the final rule should clarify the compliance period for which the concentration limits must be met. As explained above, the MACT level of control is that 98 percent of the nutritional yeast manufacturing batches be lower than or equal to concentration limits established in the rule. This level of control was determined to be achievable on a rolling 12-month average basis. Therefore, the final rule clarifies that the concentration limits are to be met on the basis of an average of concentrations measured over the duration of a batch, and not on an instantaneous basis. Ninety-eight percent of the nutritional yeast manufacturing batches are to be within concentration limits on a rolling 12-month average basis.

We proposed limits in terms of VOC as ethanol. From information and comments received after proposal, we learned that the use of propane-calibrated analyzers is widespread in the nutritional yeast manufacturing industry, and that their use is consistent with the RACT requirements which represent MACT. Therefore, the final rule expresses concentration limits based on VOC as propane rather than as ethanol.

V. What Are the Environmental, Energy, Cost, and Economic Impacts?

A. What Are the Air Quality Impacts?

We estimate that the 1998 nationwide emissions from nutritional yeast manufacturing facilities were approximately 820 Mg/yr (900 tpy) of VOC and 220 Mg/yr (240 tpy) of acetaldehyde. The final rule will reduce VOC emissions by an estimated 85 Mg/yr (93 tpy) and acetaldehyde emissions by an estimated 28 Mg/yr (31 tpy) from nutritional yeast manufacturing facilities.

B. What Are the Non-Air Health, Environmental, and Energy Impacts?

We do not expect that there will be any significant adverse non-air health, environmental or energy impacts associated with the final standards for the nutritional yeast manufacturing source category. We determine impacts relative to the baseline that is set at the level of control in absence of the rule. The predominant control measure that will be adopted by nutritional yeast

manufacturing facilities as a result of the final rule is process control, which will not result in any water pollution or solid waste impacts.

C. What Are the Cost and Economic Impacts?

The total estimated capital cost of the final rule for the nutritional yeast manufacturing source category is approximately $270,000. The total estimated annual cost of the final rule is approximately $700,000 (Docket No. A–97–13). We do not expect any adverse economic impacts to result from the final rule.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' Policies that have federalism implications is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the 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 the EPA consults with State and local officials early in the process of developing the regulation. The 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 regulation.

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

This final 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. This final rule is mandated by statute and does not impose requirements on States; however, States will be required to implement the rule by incorporating the rule into permits and enforcing the rule upon delegation. States will collect permit fees that will be used to offset the resource burden of implementing the rule. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, the EPA did consult with State and local officials in developing this rule.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

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

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or we consult with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the 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.''

These final standards do not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate nutritional yeast manufacturing facilities. Accordingly, the requirements of Executive Order 13084 do not apply to this action.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (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 rule is preferable to other potentially effective and reasonable alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. These final standards are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation as to why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final rule contains no Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of this rule for any year has been estimated to be less than $700,000. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, today's final rule is not subject to the requirements of section 203 of the UMRA.

Because this final rule does not include a Federal mandate and is estimated to result in expenditures less than $100 million in any 1 year by State, local, and tribal governments, the EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments will not be significantly or uniquely affected by this rule, the EPA is not required to develop a plan with regard to small governments. Therefore, the requirements of the UMRA do not apply to this action.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business that has fewer than 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The small business size standards are based on industries as they are defined in NAICS and were published in a final rule by the Small Business Administration on September 5, 2000 (65 FR 53533).

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant impact on a substantial number of small entities. Although there appears to be one small business in the nutritional yeast manufacturing industry, the complex ownership issues involved with this firm makes the absolute determination uncertain. The EPA thus concludes that there is at the most one small business which may be affected by these standards. Individual company cost-to-sales ratio data is considered confidential business information (CBI) and may not be disclosed. The industry average cost-to-sales ratio for all affected companies is less than 0.3 percent. No individual company is anticipated to incur a cost-to-sales ratio exceeding 3 percent. Based on the foregoing, the EPA concludes that this rule will not have a significant impact on a substantial number of small businesses.

Although this final rule will not have a significant impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities by providing alternatives to compliance and monitoring requirements.

G. Paperwork Reduction Act

The information collection requirements for these final standards will be submitted for approval to the Office of Management and Budget under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1886.02) for the nutritional yeast manufacturing source category and copies may be obtained from Ms. Sandy Farmer by mail at the U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr*. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are

mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414).

The final standards require owners or operators of affected sources to retain records for a period of 5 years. The 5-year retention period is consistent with the General Provisions of 40 CFR part 63 and with the 5-year record retention requirement in the operating permit program under title V of the CAA.

Total estimated annualized capital monitoring, inspection, reporting and recordkeeping (MIRR) costs for new and existing sources is $886,307 for the first years after promulgation of the NESHAP for this source category. Of the total estimated MIRR cost, $440,917 is labor dollars and $445,390 is capital and operation and maintenance.

The annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to total 3,459 labor hours per year at a total annual cost of $146,972. This estimate includes notifications, performance evaluations and tests, compliance reports, and records of CEMS measurements.

The total estimated annualized capital monitoring, inspection, reporting and recordkeeping (MIRR) costs for existing and new major sources to comply with the promulgated standards when an affected source opts to comply by using process add-on control equipment are determined based on the estimated capital costs of VOC monitoring equipment required for MIRR activities. For the yeast manufacturing industry, the total estimated installed capital costs of this equipment is $2,453,174 for existing major sources, and $0 for new major sources because we do not anticipate construction of any new major sources in the near future. Annualized capital MIRR costs for existing and new major sources to comply with the promulgated standard using process control were estimated to be $89,782 and $0, respectively, when averaged over the first 3 years after the effective date of the promulgated rule.

The total annual estimated operating and maintenance costs (O&M) were calculated based on (1) the estimated postage costs for the estimated total annual responses associated with the provisions of the yeast manufacturing NESHAP and (2) the estimated annual cost of contracting for performance testing required for compliance with this standard. Annual O&M costs for existing and new major sources were estimated to be $58,682 and $0, respectively, when averaged over the first 3 years after the effective date of the promulgated rule.

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 (1) review instructions; (2) 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; (3) adjust the existing ways to comply with any previously applicable instructions and requirements; (4) train personnel to be able to respond to a collection of information; (5) search data sources; (6) complete and review the collection of information; and (7) transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for our regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control number(s) for the information collection requirements in this rule will be listed in an amendment to 40 CFR part 9 or 48 CFR Chapter 15 in a subsequent **Federal Register** document after OMB approves the ICR.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves the following technical standards: EPA Methods 25A, PS 8, PS 9, and a method for determining ethanol in liquids. Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods.

The search for emissions monitoring procedures identified two voluntary consensus standards, both for EPA Method 25A. The EPA determined that one of these two standards, (EN 12619:1999), identified for measuring emissions of HAP or surrogates subject to emission standards in this rule, would not be practical due to lack of equivalency, detail, and/or quality assurance and/or quality control requirements. Therefore, we did not use this voluntary consensus standard in this rulemaking.

The other consensus standard (ISO/FDIS 14965) identified for EPA Method 25A is under development. Therefore, we did not use this voluntary consensus standard in this rulemaking. No voluntary consensus standards were identified for PS 8, PS 9, or a procedure to determine ethanol in liquids. The search and review results have been documented and are placed in the Docket No. A–97–13 (see **ADDRESSES** section) for this rule.

Sections 63.2161 and 63.2163 of the standards list the EPA test methods and performance standards included in this rulemaking. Most of the standards have been used by States and industry for more than 10 years.

I. Congressional Review Act

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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective May 21, 2001.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air emissions control, Hazardous air pollutants, Intergovernmental relations, Recordkeeping and reporting requirements.

Dated: May 8, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63, of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

2. Part 63 is amended by adding subpart CCCC to read as follows:

Subpart CCCC—National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast

Sec.

What This Subpart Covers

§ 63.2130 What is the purpose of this subpart?

This subpart establishes national emission limitations for hazardous air pollutants emitted from manufacturers of nutritional yeast. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

§ 63.2131 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a nutritional yeast manufacturing facility that is, is located at, or is part of a major source of hazardous air pollutants (HAP) emissions.

(1) A manufacturer of nutritional yeast is a facility that makes yeast for the purpose of becoming an ingredient in dough for bread or any other yeast-raised baked product, or for becoming a nutritional food additive intended for consumption by humans. A manufacturer of nutritional yeast does not include production of yeast intended for consumption by animals, such as an additive for livestock feed.

(2) A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(b) [Reserved]

§ 63.2132 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing ''affected source'' that produces *Saccharomyces cerevisiae* at a nutritional yeast manufacturing facility.

(b) The affected source is the collection of equipment used in the manufacture of the nutritional yeast species *Saccharomyces cerevisiae.* This collection of equipment includes, but is not limited to, fermentation vessels (fermenters). The collection of equipment used in the manufacture of the nutritional yeast species *Candida utilis* (torula yeast) is not part of the affected source.

(c) The emission limitations in this subpart apply to fermenters in the affected source that meet all of the criteria listed in paragraphs (c)(1) through (2) of this section.

(1) The fermenters are ''fed-batch'' as defined in § 63.2192.

(2) The fermenters are used to support one of the last three fermentation stages in a production run, which may be referred to as ''stock, first generation, and trade,'' ''seed, semi-seed, and commercial,'' or ''CB4, CB5, and CB6'' stages.

(d) The emission limitations in this subpart do not apply to flask, pure-culture, yeasting-tank, or any other set-batch fermentation, and they do not apply to any operations after the last dewatering operation, such as filtration.

(e) The emission limitations in this subpart do not apply to the affected source during the production of specialty yeast (defined in § 63.2192).

(f) An affected source is a ''new affected source'' if you commenced construction of the affected source after October 19, 1998, and you met the applicability criteria in § 63.2131 at the time you commenced construction.

(g) An affected source is ''reconstructed'' if you meet the criteria as defined in § 63.2.

(h) An affected source is ''existing'' if it is not new or reconstructed.

§ 63.2133 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with paragraphs (a)(1) through (2) of this section.

(1) If you start up your affected source before May 21, 2001, then you must comply with the emission limitations in this subpart no later than May 21, 2001.

(2) If you start up your affected source after May 21, 2001, then you must comply with the emission limitations in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations for existing sources no later than May 21, 2004.

(c) If you have an area source that increases its emissions, or its potential to emit, so that it becomes a major source of HAP, paragraphs (c)(1) through (2) of this section apply.

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the source must be in compliance with this subpart by not later than 3 years after it becomes a major source.

(d) You must meet the notification requirements in § 63.2180 according to the schedule in § 63.2180 and in subpart A of this part.

Emission Limitations

§ 63.2140 What emission limitations must I meet?

You must meet all of the emission limitations in Table 1 to this subpart.

General Compliance Requirements

§ 63.2150 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations in Table 1 to this subpart at all times, except during periods of malfunction.

(b) You must always operate and maintain your affected source, including monitoring equipment, according to the provisions in § 63.6(e)(1)(i). If the date upon which you must demonstrate initial compliance as specified in § 63.2160 falls after the compliance date specified for your affected source in § 63.2133, then you must maintain a log detailing the operation and maintenance of the continuous monitoring systems and the process and emissions control equipment during the period between those dates.

(c) You must develop and implement a written malfunction plan. It will be as specified in § 63.6(e)(3), except that the requirements for startup, shutdown, and maintenance plans, records and reports apply only to malfunctions. Under this subpart, a period of malfunction is expressed in whole batches and not in portions of batches.

Testing and Initial Compliance Requirements

§ 63.2160 By what date must I conduct an initial compliance demonstration?

(a) For each emission limitation in Table 1 to this subpart for which compliance is demonstrated by monitoring fermenter exhaust, you must demonstrate initial compliance for the period ending on the last day of the month that is 12 calendar months (or 11 calendar months, if the compliance date for your source is the first day of the month) after the compliance date that is specified for your source in § 63.2133. (For example, if the compliance date is October 15, 2003, the first 12-month period for which you must demonstrate compliance would be October 15, 2003 through October 31, 2004.)

(b) For each emission limitation in Table 1 to this subpart for which initial compliance is demonstrated by monitoring brew ethanol concentration and calculating volatile organic compound (VOC) concentration in the fermenter exhaust according to the procedures in § 63.2161, you must demonstrate initial compliance within 180 calendar days before the compliance date that is specified for your source in § 63.2133.

§ 63.2161 What performance tests and other procedures must I use if I monitor brew ethanol?

(a) You must conduct each performance test in Table 2 to this subpart that applies to you.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions that this subpart specifies in Table 2 to this subpart and in paragraphs (b)(1) through (4) of this section.

(1) Conduct each performance test simultaneously with brew ethanol monitoring to establish a brew-to-exhaust correlation equation as specified in paragraph (f) of this section.

(2) For each fermentation stage, conduct one run of the EPA Test Method 25A of 40 CFR part 60, appendix A, over the entire length of a batch. The three fermentation stages do not have to be from the same production run.

(3) Do the test at a point in the exhaust-gas stream before you inject any dilution air, which is any air not needed to control fermentation.

(4) Record the results of the test for each fermentation stage.

(c) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(d) You must collect data to correlate the brew ethanol concentration measured by the continuous emission monitoring system (CEMS) to the VOC concentration in the fermenter exhaust according to paragraphs (d)(1) through (3) of this section.

(1) You must collect a separate set of brew ethanol concentration data for each fed-batch fermentation stage while manufacturing the product that comprises the largest percentage (by mass) of average annual production.

(2) Measure brew ethanol as specified in § 63.2164 simultaneously with conducting a performance test for VOC in fermenter exhaust as specified in paragraph (b) of this section. You must measure brew ethanol at least once during each successive 30-minute period over the entire period of the performance test for VOC in fermenter exhaust.

(3) Keep a record of the brew ethanol concentration data for each fermentation stage over the period of EPA Test Method 25A of 40 CFR part 60, appendix A, performance test when the VOC concentration in the fermenter exhaust does not exceed the applicable emission limitation in Table 1 to this subpart.

(e) For each set of data that you collected under paragraph (d) of this section, perform a linear regression of brew ethanol concentration (percent) on VOC fermenter exhaust concentration (parts per million by volume (ppmv) measured as propane). The correlation between the brew ethanol concentration as measured by the CEMS and the VOC fermenter exhaust concentration as measured by EPA Test Method 25A of 40 CFR part 60, appendix A, must be linear with a correlation coefficient of at least 0.90.

(f) Calculate the VOC concentration in the fermenter exhaust using the brew ethanol concentration data collected under paragraph (d) of this section and according to Equation 1 of this section.

$$BAVOC = BAE * CF + y \quad \text{(Eq. 1)}$$

Where:

BAVOC = batch-average concentration of VOC in fermenter exhaust (ppmv measured as propane), calculated for compliance demonstration

BAE = batch-average concentration of brew ethanol in fermenter liquid (percent), measured by CEMS

CF = constant established at performance test and representing the slope of the regression line

y = constant established at performance test and representing the y-intercept of the regression line

§ 63.2162 When must I conduct subsequent performance tests?

(a) For each emission limitation in Table 1 to this subpart for which compliance is demonstrated by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161, you must

conduct an EPA Test Method 25A of 40 CFR part 60, appendix A, performance test and establish a brew-to-exhaust correlation according to the procedures in Table 2 to this subpart and in § 63.2161, at least once every year.

(b) The first subsequent performance test must be conducted no later than 365 calendar days after the initial performance test conducted according to § 63.2160. Each subsequent performance test must be conducted no later than 365 calendar days after the previous performance test. You must conduct a performance test for each 365 calendar day period for the lifetime of the affected source.

§ 63.2163 If I monitor fermenter exhaust, what are my monitoring installation, operation, and maintenance requirements?

(a) Each CEMS must be installed, operated, and maintained according to the applicable Performance Specification (PS) of 40 CFR part 60, appendix B.

(b) You must conduct a performance evaluation of each CEMS according to the requirements in § 63.8, according to the applicable Performance Specification of 40 CFR part 60, appendix B, and according to paragraphs (b)(1) through (4) of this section.

(1) If your CEMS monitor generates a single combined response value for VOC (examples of such detection principles are flame ionization, photoionization, and non-dispersive infrared absorption), but it is not a flame ionization analyzer, you must use PS 8 to show that your CEMS is operating properly.

(i) Use EPA Test Method 25A of 40 CFR part 60, appendix A, to do the relative-accuracy test PS 8 requires.

(ii) Calibrate the reference method with propane.

(iii) Collect a 1-hour sample for each reference-method test.

(2) If you continuously monitor VOC emissions using a flame ionization analyzer, then you must conduct the calibration drift test PS 8 requires, but you are not required to conduct the relative-accuracy test PS 8 requires.

(3) If you continuously monitor VOC emissions using gas chromatography, you must use PS 9 of CFR part 60, appendix B, to show that your CEMS is operating properly.

(4) You must complete the performance evaluation and submit the performance evaluation report before the compliance date that is specified for your source in § 63.2133.

(c) Calibrate the CEMS with propane.

(d) Set the CEMS span at not greater than 5 times the relevant emission limit, with 1.5 to 2.5 times the relevant emission limit being the range considered by us to be generally optimum.

(e) You must monitor VOC concentration in fermenter exhaust at any point prior to dilution of the exhaust stream.

(f) Each CEMS must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 30-minute period within each batch monitoring period. Except as specified in paragraph (g) of this section, you must have a minimum of two cycles of operation in a 1-hour period to have a valid hour of data.

(g) The CEMS data must be reduced to arithmetic batch averages computed from two or more data points over each 1-hour period, except during periods when calibration, quality assurance, or maintenance activities pursuant to provisions of this part are being performed. During these periods, a valid hour of data shall consist of at least one data point representing a 30-minute period.

(h) You must have valid CEMS data from at least 75 percent of the full hours over the entire batch monitoring period.

(i) For each CEMS, record the results of each inspection, calibration, and validation check.

(j) You must check the zero (low-level) and high-level calibration drifts for each CEMS in accordance with the applicable PS of 40 CFR part 60, appendix B. The zero (low-level) and high-level calibration drifts shall be adjusted, at a minimum, whenever the zero (low-level) drift exceeds 2 times the limits of the applicable PS. The calibration drift checks must be performed at least once daily except that they may be performed less frequently under the conditions of paragraphs (j)(1) through (3) of this section.

(1) If a 24-hour calibration drift check for your CEMS is performed immediately prior to, or at the start of, a batch monitoring period of a duration exceeding 24 hours, you are not required to perform 24-hour-interval calibration drift checks during that batch monitoring period.

(2) If the 24-hour calibration drift exceeds 2.5 percent of the span value (or more than 10 percent of the calibration gas value if your CEMS is a gas chromatograph (GC)) in fewer than 5 percent of the checks over a 1-month period, and the 24-hour calibration drift never exceeds 7.5 percent of the span value, then the frequency of calibration drift checks may be reduced to at least weekly (once every 7 days).

(3) If, during two consecutive weekly checks, the weekly calibration drift exceeds 5 percent of the span value (or more than 20 percent of the calibration gas value, if your CEMS is a GC), then a frequency of at least 24-hour interval calibration checks must be resumed until the 24-hour calibration checks meet the test of paragraph (j)(2) of this section.

(k) If your CEMS is out of control, you must take corrective action according to paragraphs (k)(1) through (3) of this section.

(1) Your CEMS is out of control if the zero (low-level) or high-level calibration drift exceeds 2 times the limits of the applicable PS.

(2) When the CEMS is out of control, take the necessary corrective action and repeat all necessary tests that indicate that the system is out of control. You must take corrective action and conduct retesting until the performance requirements are below the applicable limits.

(3) During the batch monitoring periods in which the CEMS is out of control, recorded data shall not be used in data averages and calculations, or to meet any data availability requirement established under this subpart. The beginning of the out-of-control period is the beginning of the first batch monitoring period that follows the most recent calibration drift check during which the system was within allowable performance limits. The end of the out-of-control period is the end of the last batch monitoring period before you have completed corrective action and successfully demonstrated that the system is within the allowable limits. If your successful demonstration that the system is within the allowable limits occurs during a batch monitoring period, then the out-of-control period ends at the end of that batch monitoring period. If the CEMS is out of control for any part of a particular batch monitoring period, it is out of control for the whole batch monitoring period.

§ 63.2164 If I monitor brew ethanol, what are my monitoring installation, operation, and maintenance requirements?

(a) Each CEMS must be installed, operated, and maintained according to manufacturer's specifications and the plan for malfunctions that you must develop and use according to § 63.6(e).

(b) Each CEMS must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 30-minute period within each batch monitoring period. Except as specified in paragraph (c) of this section, you must have a minimum of two cycles of operation in a 1-hour period to have a valid hour of data.

(c) The CEMS data must be reduced to arithmetic batch averages computed from two or more data points over each 1-hour period, except during periods when calibration, quality assurance, or maintenance activities pursuant to provisions of this part are being performed. During these periods, a valid hour of data shall consist of at least one data point representing a 30-minute period.

(d) You must have valid CEMS data from at least 75 percent of the full hours over the entire batch monitoring period.

(e) Set the CEMS span to correspond to not greater than 5 times the relevant emission limit, with 1.5 to 2.5 times the relevant emission limit being the range considered by us to be generally optimum. Use the brew-to-exhaust correlation equation established under § 63.2161(f) to determine the span value for your CEMS that corresponds to the relevant emission limit.

(f) For each CEMS, record the results of each inspection, calibration, and validation check.

(g) The GC that you use to calibrate your CEMS must meet the requirements of paragraphs (g)(1) through (3) of this section.

(1) Calibrate the GC at least daily, by analyzing standard solutions of ethanol in water (0.05 percent, 0.15 percent, and 0.3 percent).

(2) For use in calibrating the GC, prepare the standard solutions of ethanol using the procedures listed in paragraphs (g)(2)(i) through (vi) of this section.

(i) Starting with 100 percent ethanol, dry the ethanol by adding a small amount of anhydrous magnesium sulfate (granular) to 15–20 milliliters (ml) of ethanol.

(ii) Place approximately 50 ml of water into a 100-ml volumetric flask and place the flask on a balance. Tare the balance. Weigh 2.3670 grams of the dry (anhydrous) ethanol into the volumetric flask.

(iii) Add the 100-ml volumetric flask contents to a 1000-ml volumetric flask. Rinse the 100-ml volumetric flask with water into the 1000-ml flask. Bring the volume to 1000 ml with water.

(iv) Place an aliquot into a sample bottle labeled ''0.3% Ethanol.''

(v) Fill a 50-ml volumetric flask from the contents of the 1000-ml flask. Add the contents of the 50-ml volumetric flask to a 100-ml volumetric flask and rinse the 50-ml flask into the 100-ml flask with water. Bring the volume to 100 ml with water. Place the contents into a sample bottle labeled ''0.15% Ethanol.''

(vi) With a 10-ml volumetric pipette, add two 10.0-ml volumes of water to a sample bottle labeled ''0.05% Ethanol.'' With a 10.0-ml volumetric pipette, pipette 10.0 ml of the 0.15 percent ethanol solution into the sample bottle labeled ''0.05% Ethanol.''

(3) For use in calibrating the GC, dispense samples of the standard solutions of ethanol in water in aliquots to appropriately labeled and dated glass sample bottles fitted with caps having a Teflon® seal. Refrigerated samples may be kept unopened for 1 month. Prepare new calibration standards of ethanol in water at least monthly.

(h) Calibrate the CEMS according to paragraphs (h)(1) through (3) of this section.

(1) To calibrate the CEMS, inject a brew sample into a calibrated GC and compare the simultaneous ethanol value given by the CEMS to that given by the GC. Use either the Porapak® Q, 80–100 mesh, 6′ × ⅛″, stainless steel packed column or the DB Wax, 0.53 mm × 30 m capillary column.

(2) If a CEMS ethanol value differs by 20 percent or more from the corresponding GC ethanol value, determine the brew ethanol values throughout the rest of the batch monitoring period by injecting brew samples into the GC not less frequently than every 30 minutes. From the time at which the difference of 20 percent or more is detected until the batch monitoring period ends, the GC data will serve as the CEMS data.

(3) Perform a calibration of the CEMS at least four times per batch.

§ 63.2165 How do I demonstrate initial compliance with the emission limitations if I monitor fermenter exhaust?

(a) You must demonstrate initial compliance with each emission limitation that applies to you according to Table 3 to this subpart.

(b) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.2180(e).

§ 63.2166 How do I demonstrate initial compliance with the emission limitations if I monitor brew ethanol?

(a) You must demonstrate initial compliance with each emission limitation that applies to you according to Table 3 to this subpart.

(b) You must establish the brew-to-exhaust correlation for each fermentation stage according to § 63.2161(e).

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.2180(e).

Continuous Compliance Requirements

§ 63.2170 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously during each batch monitoring period.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or quality control activities in data averages and calculations used to report emission or operating levels, or to fulfill a minimum data availability requirement. You must use all the data collected during all other periods in assessing the operation of the control system.

§ 63.2171 How do I demonstrate continuous compliance with the emission limitations?

(a) You must demonstrate continuous compliance with each emission limitation in Table 1 to this subpart that applies to you according to methods specified in Table 4 to this subpart.

(b) You must calculate the percentage of within-concentration batches (defined in § 63.2192) for each 12-month period according to paragraphs (b)(1) through (4) of this section.

(1) Determine the percentage of batches over a 12-month calculation period that were in compliance with the applicable maximum concentration. The total number of batches in the calculation period is the sum of the numbers of batches of each fermentation stage for which emission limits apply. To calculate the 12-month percentage, do not include batches in production during periods of malfunction. In counting the number of batches in the 12-month calculation period, include those batches for which the batch monitoring period ended on or after 12 a.m. on the first day of the period and exclude those batches for which the batch monitoring period did not end on or before 11:59 p.m. on the last day of the period.

(2) You must determine the 12-month percentage at the end of each calendar month.

(3) The first 12-month calculation period begins on the compliance date that is specified for your source in § 63.2133 and ends on the last day of the month that includes the date 365 days after your compliance date, unless the

compliance date for your source is the first day of the month, in which case the first 12-month calculation period ends on the last day of the month that is 11 calendar months after the compliance date. (For example, if the compliance date for your source is October 15, 2003, the first 12-month calculation period would begin on October 15, 2003, and end on October 31, 2004. If the compliance date for your source is October 1, 2003, the first 12-month calculation period would begin on October 1, 2003, and end on September 30, 2004.)

(4) The second 12-month calculation period and each subsequent 12-month calculation period begin on the first day of the month following the first full month of the previous 12-month averaging period and end on the last day of the month 11 calendar months later. (For example, if the compliance date for your source is October 15, 2003, the second calculation period would begin on December 1, 2003 and end on November 30, 2004.)

(c) You must report each instance (that is, each 12-month calculation period) in which you did not meet each emission requirement in Table 4 to this subpart that applies to you. (Failure of a single batch to meet a concentration limit does not in and of itself constitute a failure to meet the emission limitation.) Each instance in which you failed to meet each applicable emission limitation is reported as part of the requirements in § 63.2181.

(d) During periods of malfunction, you must operate in accordance with the malfunction plan.

Notification, Reports, and Records

§ 63.2180 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(e), (f)(4) and (6), and 63.9(b) through (h) that apply to you by the dates specified.

(b) If you start up your affected source before May 21, 2001, you are not subject to the initial notification requirements of § 63.9(b)(2).

(c) If you are required to conduct a performance test as specified in Table 2 to this subpart, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1).

(d) If you are required to conduct a performance evaluation as specified in § 63.2163(b), you must submit a notification of the date of the performance evaluation at least 60 days prior to the date the performance evaluation is scheduled to begin as required in § 63.8(e)(2).

(e) If you are required to conduct a performance test or other initial compliance demonstration as specified in Table 2 or 3 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii) and according to paragraphs (e)(1) through (2) of this section.

(1) For each initial compliance demonstration required in Table 3 to this subpart that does not include a performance test, you must submit the Notification of Compliance Status no later than July 31 or January 31, whichever date follows the end of the first 12 calendar months after the compliance date that is specified for your source in § 63.2133. If your initial compliance demonstration does not include a performance test, the first compliance report, described in § 63.2181(b)(1), serves as the Notice of Compliance Status.

(2) For each initial compliance demonstration required in Table 2 or 3 to this subpart that includes a performance test conducted according to the requirements in Table 2, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

§ 63.2181 What reports must I submit and when?

(a) You must submit each report in Table 5 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 5 to this subpart and according to paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.2133 and ending on either June 30 or December 31 (use whichever date is the first date following the end of the first 12 calendar months after the compliance date that is specified for your source in § 63.2133). The first compliance report must include the percentage of within-concentration batches, as described in § 63.2171(b), for the first 12-month calculation period described in § 63.2171(b)(3). It must also include a percentage for each subsequent 12-month calculation period, as described in § 63.2171(b)(4), ending on a calendar month that falls within the first compliance period. (For example, if the compliance date for your source is October 15, 2003, the first compliance report would cover the period from October 15, 2003 to December 31, 2004. It would contain percentages for the 12-month periods ending October 31, 2004; November 30, 2004; and December 31, 2004.)

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first 12 calendar months after the compliance date that is specified for your affected source in § 63.2133.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31. Each subsequent compliance report must include the percentage of within-concentration batches for each 12-month calculation period ending on a calendar month that falls within the reporting period. (For example, if the compliance date for your source is October 15, 2003, the second compliance report would cover the period from January 1, 2005 through June 30, 2005. It would contain percentages for the 12-month periods ending January 31, 2005; February 28, 2005; March 31, 2005; April 30, 2005; May 31, 2005; and June 30, 2005.)

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(a)(iii)(A) or 40 CFR 71.6(a)(3)(a)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information listed in paragraphs (c)(1) through (5) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the accuracy of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) Percentage of batches that are within-concentration batches for each 12-month period ending on a calendar

month that falls within the reporting period.

(5) If you had a malfunction during the reporting period and you took actions consistent with your malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i) for each malfunction.

§ 63.2182 What records must I keep?

(a) You must keep the records listed in paragraphs (a)(1) through (4) of this section. These include:

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Notification of Compliance Status and compliance report that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to malfunction;

(3) Records of performance tests and performance evaluations as required in § 63.10(b)(2)(viii); and

(4) Records of results of brew-to-exhaust correlation tests specified in § 63.2161.

(b) For each CEMS, you must keep the records listed in paragraphs (b)(1) through (9) of this section. These include:

(1) Records described in § 63.10(b)(2)(vi);

(2) All required measurements needed to demonstrate compliance with a relevant standard (including, but not limited to, 30-minute averages of CEMS data, raw performance testing measurements, and raw performance evaluation measurements, that support data that the source is required to report);

(3) Records described in § 63.10(b)(2)(viii) through (xi). The CEMS system must allow the amount of excess zero (low-level) and high-level calibration drift measured at the interval checks to be quantified and recorded;

(4) All required CEMS measurements (including monitoring data recorded during unavoidable CEMS breakdowns and out-of-control periods);

(5) Identification of each batch during which the CEMS was inoperative, except for zero (low-level) and high-level checks;

(6) Identification of each batch during which the CEMS was out of control, as defined in § 63.2163(k);

(7) Previous (i.e., superseded) versions of the performance evaluation plan as required in § 63.8(d)(3);

(8) Request for alternatives to relative accuracy test for CEMS as required in § 63.8(f)(6)(i); and

(9) Records of each batch for which the batch-average VOC concentration exceeded the applicable maximum VOC concentration in Table 1 to this subpart and whether the batch was in production during a period of malfunction or during another period.

(c) You must keep the records required in Table 4 to this subpart to show continuous compliance with each emission limitation that applies to you.

(d) You must also keep the records listed in paragraphs (d)(1) through (3) of this section for each batch in your affected source.

(1) Unique batch identification number.

(2) Fermentation stage for which you are using the fermenter.

(3) Unique CEMS equipment identification number.

§ 63.2183 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.2190 What parts of the General Provisions apply to me?

Table 6 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.13 apply to you.

§ 63.2191 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are as listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the non-opacity emission limitations in § 63.2140 under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.2192 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in 40 CFR 63.2, the General Provisions of this part, and in this section as follows:

Batch means a single fermentation cycle in a single fermentation vessel (fermenter).

Batch monitoring period means the period that begins at the later of either the start of aeration or the addition of yeast to the fermenter; the period ends at the earlier of either the end of aeration or the point at which the yeast has begun being emptied from the fermenter.

Brew means the mixture of yeast and additives in the fermenter.

Brew ethanol means the ethanol in fermenter liquid.

Brew ethanol monitor means the monitoring system that you use to measure brew ethanol to demonstrate compliance with this subpart. The monitoring system includes a resistance element used as an ethanol sensor, with the measured resistance proportional to the concentration of ethanol in the brew.

Brew-to-exhaust correlation means the correlation between the concentration of ethanol in the brew and the concentration of VOC in the fermenter exhaust. This correlation is specific to each fed-batch fermentation stage and is established while manufacturing the product that comprises the largest percentage (by mass) of average annual production.

Emission limitation means any emission limit or operating limit.

Fed-batch means the yeast is fed carbohydrates and additives during fermentation in the vessel. In contrast, carbohydrates and additives are added to ''set-batch'' fermenters only at the start of the batch.

1-hour period means any 60-minute period commencing on the minute at which the batch monitoring period begins.

Product means the yeast resulting from the final stage in a production run. Products are distinguished by yeast species, strain, and variety.

Responsible official means responsible official as defined in 40 CFR 70.2.

Specialty yeast includes but is not limited to yeast produced for use in wine, champagne, whiskey, and beer.

Within-concentration batch means a batch for which the average VOC concentration is not higher than the maximum concentration that is allowed as part of the applicable emission limitation.

Tables

As stated in § 63.2140, you must comply with the emission limitations in the following table:

TABLE 1 TO SUBPART CCCC.—EMISSION LIMITATIONS

For each fed-batch fermenter producing yeast in the following fermentation stage . . .	You must meet the following emission limitation . . .
Last stage (Trade); or Second-to-last stage (First Generation); or Third-to-last stage (Stock).	a. For at least 98 percent of all batches (sum of batches from last, second-to-last, and third-to-last stages) in each 12-month calculation period described in § 63.2171(b), the VOC concentration in the fermenter exhaust does not exceed the applicable maximum concentration (100 ppmv for last stage, 200 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane, and averaged over the duration of a batch. b. The emission limitation does not apply during the production of specialty yeast.

As stated in § 63.2161, if you demonstrate compliance by monitoring brew ethanol, you must comply with the requirements for performance tests in the following table:

TABLE 2 TO SUBPART CCCC.—REQUIREMENTS FOR PERFORMANCE TESTS

[Brew Ethanol Monitoring Only]

For each fed-batch fermenter for which compliance is determined by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161, you must . . .	Using . . .	According to the following requirements . . .
1. Measure VOC as propane	Method 25A*, or an alternative validated by EPA Method in the 301* and approved by the Administrator.	You must measure the VOC concentration in the fermenter exhaust at any point prior to dilution of the exhaust stream.
2. Select the sampling port's location and the number of traverse points.	Method 1*	
3. Measure volumetric flow rate.	Method 2*	
4. Perform gas analysis to determine the dry molecular weight of the stack gas.	Method 3*	
5. Determine moisture content of the stack gas	Method 4*	

*EPA Test Methods found in appendix A of 40 CFR part 60.

As stated in § 63.2165 (if you monitor fermenter exhaust) and § 63.2166 (if you monitor brew ethanol), you must comply with the requirements to demonstrate initial compliance with the applicable emission limitations in the following table:

TABLE 3 TO SUBPART CCCC.—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS

For . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
1. Each fed-batch fermenter producing yeast in a fermentation stage (last Trade), second-to-last (First Generation), or third-to-last (Stock)) for which compliance is determined by monitoring VOC concentration in the fermenter exhaust.	The VOC concentration in the fermenter exhaust, averaged over the duration of the batch, does not exceed the applicable maximum concentration (100 ppmv for last stage, 200 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane..	a. You reduce the CEMS data batch averages according to § 63.2163(g). b. The average VOC concentration in the fermenter exhaust for at least 98 percent of the batches (sum of batches from last, second-to-last, and third-to-last stages) during the initial compliance period described in § 63.2160(a) does not exceed the applicable maximum concentration.
2. Each fed-batch fermenter producing yeast in a fermentation stage (last (Trade), second-to-last (First Generation), or third-to-last (Stock)) for which compliance is determined by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161.	The VOC concentration in the fermenter exhaust, averaged over the duration of the batch, does not exceed the applicable maximum concentration (100 ppmv for last stage, 2000 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane.	a. The VOC fermenter exhaust concentration over the period of the Method 25A* performance test does not exceed the applicable maximum concentration. b. You have a record of the brew-to-exhaust correlation during the Method 25A* performance test during which the VOC fermenter exhaust concentration did not exceed the applicable maximum concentration.

*EPA Test Method in appendix A of 40 CFR part 60.

As stated in § 63.2171, you must comply with the requirements to demonstrate continuous compliance with the applicable emission limitations in the following table:

TABLE 4 TO SUBPART CCCC.—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS

For . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by . . .
1. Each fed-batch fermenter producing yeast in a fermentation stage (last (Trade), second-to-last (First Generation), or third-to-last (Stock)) for which compliance is determined by monitoring VOC concentration in the fermenter exhaust.	For at least 98 percent of all batches (sum of batches from last, second-to-last, and third-to-last stages) in each 12-month calculation period described in § 63.2171(b), the VOC concentration in the fermenter exhaust, averaged over the duration of the batch, does not exceed the applicable maximum concentration (100 ppmv for last stage, 200 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane.	a. Collecting the monitoring data according to § 63.2163(f). b. Reducing the data according to § 63.2163(g). c. For at least 98 percent of the batches (sum of batches from last, second-to-last, and third-to-last stages) for each 12-month period ending within a semiannual reporting period described in § 63.2181(b)(3), the batch average VOC concentration in the fermenter exhaust does not exceed the applicable maximum concentration.
2. Each fed-batch fermenter producing yeast in a fermentation stage (last (Trade), second-to-last (First Generation), or third-to-last (Stock)) for which compliance is determined by monitoring brew ethanol concentration and calculating VOC concentration in the fermenter exhaust according to the procedures in § 63.2161.	.For at least 98 percent of all batches (sum of batches from last, second-to-last, and third-to-last stages) in each 12-month calculation period described in § 63.2171(b), the VOC concentration in the fermenter exhaust, averaged over the duration of the batch, does not exceed the applicable maximum concentration (100 ppmvc for last stage, 200 ppmv for second-to-last stage, or 300 ppmv for third-to-last stage), measured as propane.	a. Collecting the monitoring data according to § 63.2164(b). b. Reducing the data according to § 63.2164(c). c. For at least 98 percent of the batches (sum of batches from last, second-to-last, and third-to-last stages) for each 12-month period ending within a semiannual reporting period described in § 63.2181(b)(3), the batch average VOC concentration in the fermenter exhaust does not exceed the applicable maximum concentration.

As stated in § 63.2181, you must submit a compliance report that contains the information in § 63.2181(c) as well as the information in the following table; you must also submit malfunction reports according to the requirements in the following table:

TABLE 5 TO SUBPART CCCC.—REQUIREMENTS FOR REPORTS

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. Your calculated percentage of within-concentration batches, as described in § 63.2171(b), for 12-month calculation periods ending on each calendar month that falls within the reporting period.	Semiannually according to the requirements in § 63.2181(b).
	b. If you had a malfunction during the reporting period and you took actions consistent with your malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).	Semiannually according to the requirements in § 63.2181(b).
2. Immediate malfunction report if you had a malfunction during the reporting period that is not consistent with your malfunction plan.	a. Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§ 63.10(d)(5)(ii)).

As stated in § 63.2190, you must comply with the applicable General Provisions requirements according to the following table:

TABLE 6 TO SUBPART CCCC.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART CCCC

Citation	Subject	Applicable to subpart CCCC?
§ 63.1	Applicability	Yes.
§ 63.2	Definitions	Yes.
§ 63.3	Units and Abbreviations	Yes.
§ 63.4	Prohibited Activities and Circumvention	Yes.
§ 63.5	Construction and Reconstruction	Yes.
§ 63.6	Compliance With Standards and Maintenance Requirements.	1. For § 63.6(e) and (f), requirements for startup, shutdown, and malfunctions apply only to malfunctions. 2. § 63.6(h) does not apply. 3. Otherwise, all apply.

TABLE 6 TO SUBPART CCCC.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART CCCC—Continued

Citation	Subject	Applicable to subpart CCCC?
§63.7	Performance Testing Requirements	1. §63.7(a)(1)–(2) and (e)(3) do not apply, instead specified in this subpart. 2. Otherwise, all apply.
§63.8	Monitoring Requirements	1. §63.8(a)(2) is modified by §63.2163. 2. §63.8(a)(4) does not apply. 3. For §63.8(c)(1), requirements for startup, shutdown, and malfunctions apply only to malfunctions, and no report pursuant to §63.10(d)(5)(i) is required. 4. For §63.8(d), requirements for startup, shutdown, and malfunctions apply only to malfunctions. 5. §63.8(c)(4)(i), (c)(5), (e)(5)(ii), and (g)(5), do not apply. 6. §63.8(c)(4)(ii), (c)(6)–(8), (e)(4), and (g)(1)–(4) do not apply, instead specified in this subpart. 7. Otherwise, all apply.
§63.9	Notification Requirements	1. §63.9(b)(2) does not apply because rule omits requirements for initial notification for sources that start up prior to May 21, 2001 2. §63.9(f) does not apply. 3. Otherwise, all apply.
§63.10	Recordkeeping and Reporting Requirements	1. For §63.10(b)(2)(i)–(v), (c)(9)–(15), and (d)(5), requirements for startup, shutdown, and malfunctions apply only to malfunctions. 2. §63.10(b)(2)(vii) and (c)(1)–(6) do not apply, instead specified in this subpart. 3. §63.10(c)(7)–(8), (d)(3), (e)(2)(ii)–(4), (e)(3)–(4) do not apply. 4. Otherwise, all apply.
§63.11	Flares	No.
§63.12	Delegation	Yes.
§63.13	Addresses	Yes.
§63.14	Incorporation by Reference	Yes.
§63.15	Availability of Information	Yes.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 96–262; FCC 01–146]

Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, we limit the application of our tariff rules to CLEC access services in order to prevent use of the regulatory process to impose excessive access charges on IXCs and their customers. Under the detariffing regime we adopt, CLEC access rates that are at or below the benchmark that we set will be presumed to be just and reasonable and CLECs may impose them by tariff. Above the benchmark, CLEC access services will be mandatorily detariffed, so CLECs must negotiate higher rates with the IXCs. We also adopt a rural exemption to our benchmark scheme, recognizing that a higher level of access charges is justified for certain CLECs serving truly rural areas. To avoid too great a disruption for competitive carriers, we implement the benchmark in a way that will cause CLEC rates to decrease over time until they reach the rate charged by the incumbent LEC. We also make clear that an IXC's refusal to serve the customers of a CLEC that tariffs access rates within our safe harbor, when the IXC serves ILEC end users in the same area, generally constitutes a violation of the duty of all common carriers to provide service upon reasonable request.

DATES: Effective June 20, 2001.

FOR FURTHER INFORMATION CONTACT: Jeffrey H. Dygert, Common Carrier Bureau, (202) 418–1500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Seventh Report and Order in CC Docket No. 96–262, released on April 27, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, D.C., 20554.

I. Introduction

1. By this order, we seek to ensure, by the least intrusive means possible, that CLEC access charges are just and reasonable. Specifically, we limit the application of our tariff rules to CLEC access services in order to prevent use of the regulatory process to impose excessive access charges on IXCs and their customers. Previously, certain CLECs have used the tariff system to set access rates that were subject neither to negotiation nor to regulation designed to ensure their reasonableness. These CLECs have then relied on their tariff to demand payment from IXCs for access services that the long distance carriers likely would have declined to purchase at the tariffed rate.

2. Under the detariffing regime we adopt, CLEC access rates that are at or below the benchmark that we set will be presumed to be just and reasonable and CLECs may impose them by tariff. Above the benchmark, CLEC access services will be mandatorily detariffed, so CLECs must negotiate higher rates with the IXCs. During the pendency of negotiations, or if the parties cannot agree, the CLEC must charge the IXC the appropriate benchmark rate. We also adopt a rural exemption to our

benchmark scheme, recognizing that a higher level of access charges is justified for certain CLECs serving truly rural areas. To avoid too great a disruption for competitive carriers, we implement the benchmark in a way that will cause CLEC rates to decrease over time until they reach the rate charged by the incumbent LEC.

3. We also make clear that an IXC's refusal to serve the customers of a CLEC that tariffs access rates within our safe harbor, when the IXC serves ILEC end users in the same area, generally constitutes a violation of the duty of all common carriers to provide service upon reasonable request.

4. We intend to allow CLECs a period of flexibility during which they can conform their business models to the market paradigm that we adopt herein. In addition, these rules should continue to ensure the ubiquity of a fully interconnected telecommunications network that consumers have come to expect. Finally, by ensuring that CLECs do not shift an unjust portion of their costs to interexchange carriers, our actions should help continue the downward trend in long-distance rates for end users.

5. We view the mechanism we adopt today as a means of moving the marketplace for access services closer to a competitive model. Because our tariff benchmark is tied to the incumbent LEC rate, we will re-examine these rates at the close of the period specified in the *CALLS Order,* 65 FR 38684, June 21, 2000. Through a separate further notice of proposed rulemaking, published elsewhere in this issue, we also evaluate the access charge scheme as part of a broader review of inter-carrier compensation.

II. CLEC Switched Access Services

A. The Structure of the Access Service Market

6. It appears that certain CLECs have availed themselves of the tariff system and have refused to enter meaningful negotiations on access rates, choosing instead simply to file a tariff and bind IXCs receiving their access service to the rates therein. Providers of terminating access may be particularly insulated from the effects of competition in the market for access services. The party that actually chooses the terminating access provider does not also pay the provider's access charges and therefore has no incentive to select a provider with low rates. Indeed, end users may have the incentive to choose a CLEC with the highest access rates because greater access revenues likely permit CLECs to offer lower rates to their end users. The record also indicates that CLEC originating access service may also be subject to little competitive pressure, notwithstanding the fact that the IXCs typically have a relationship with the local exchange provider in order to be included on the LEC's list of presubscribed IXCs.

7. CLECs' ability to impose excessive access charges seems attributable to two separate factors. First, although the end user chooses her access provider, she does not pay that provider's access charges. Rather, the access charges are paid by the caller's IXC, which has little practical means of affecting the caller's choice of access provider. Second, the Commission has interpreted section 254(g) to require IXCs geographically to average their rates and thereby to spread the cost of both originating and terminating access over all their end users. Consequently, IXCs have little or no ability to create incentives for their customers to choose CLECs with low access charges. Since the IXCs are effectively unable either to pass through access charges to their end users or to create other incentives for end users to choose LECs with low access rates, the party causing the costs—the end user that chooses the high-priced LEC—has no incentive to minimize costs.

8. We are concerned that, in this environment, permitting CLECs to tariff any rate that they choose may allow some CLECs inappropriately to shift onto the long distance market in general a substantial portion of the CLECs' start-up and network build-out costs. Such cost shifting may promote economically inefficient entry into the local markets and may distort the long distance market.

9. We decline to conclude, in this order, that CLEC access rates, across the board, are unreasonable. Nevertheless, there is ample evidence that the combination of the market's failure to constrain CLEC access rates, our geographic rate averaging rules for IXCs, the absence of effective limits on CLEC rates and the tariff system create an arbitrage opportunity for CLECs to charge unreasonable access rates.

B. Tariff Benchmark Mechanism

10. A substantial majority of commenters strongly oppose the mandatory detariffing of CLEC access services. Apart from their opposition to mandatory detariffing, however, the two sides of the debate have been largely unable to agree about how CLECs should set rates for their switched access services.

11. In their provision of access services, competitive carriers actually serve two distinct customer groups. The first is the IXCs, which purchase access service as an input for the long distance service that they provide to their end-user customers. An equally important group of customers for access services is the end users who benefit from the ability, provided by access service, to place and receive long distance calls. The noteworthy aspect of this second group of access consumers, or beneficiaries, is that, unlike IXCs, they have competitive alternatives in the market in which they purchase CLEC access service.

12. Under the regime we adopt in this order, CLECs will be restricted only in the manner that they recover their costs from those access-service consumers that have no competitive alternative. We implement this restriction on the CLECs' exercise of their monopoly power by establishing a benchmark level at which CLEC access rates will be conclusively presumed to be just and reasonable and at (or below) which they may therefore be tariffed. Above the benchmark, CLECs will be mandatorily detariffed. The benchmark approach has several virtues that recommend it.

13. First, a benchmark provides a bright line rule that permits a simple determination of whether a CLEC's access rates are just and reasonable. Such a bright line approach is particularly desirable given the current legal and practical difficulties involved with comparing CLEC rates to any objective standard of ''reasonableness.'' Second, by permitting CLECs to file access tariffs at or below a benchmark rate, our interim approach continues to allow the carriers on both sides of the access transaction to enjoy the convenience of a tariffed service. Third, adopting a benchmark for tariffed rates allows CLECs the flexibility to obtain additional revenues from alternative sources. They may obtain higher rates through negotiation.

C. Level and Structure of the Tariff Benchmark

14. In setting the level of our benchmark, we seek, to the extent possible, to mimic the actions of a competitive marketplace, in which new entrants typically price their product at or below the level of the incumbent provider. We conclude that the benchmark rate, above which a CLEC may not tariff, should eventually be equivalent to the switched access rate of the incumbent provider operating in the CLEC's service area. We do not, however, immediately set the benchmark rate at the competing ILEC rate because such a flash cut likely would be unduly detrimental to the competitive carriers that have not

previously been held to the regulatory standards imposed on ILECs. Our benchmark mechanism, with certain exceptions, will permit CLECs initially to tariff rates for their switched access service of up to 2.5 cents per minute, or the rate charged by the competing incumbent LEC, whichever is higher. For those carriers competing with ILECs that have tariffed rates below the benchmark (generally, the Bell operating companies), the benchmark rate will decline over the course of three years until it reaches the competing ILEC's rate. For at least one additional year, CLECs will be permitted to continue to tariff this rate, even if we decide to move other access traffic to a bill-and-keep regime. We also adopt rules to ensure that no CLEC avails itself of our benchmark scheme to *increase* its access rates, and we adopt a separate benchmark for certain firms operating in rural areas.

15. In determining the initial level for the safe harbor rates which may be imposed by tariff, we use current CLEC rates as a starting point for analysis because, as noted, we lack an established framework for translating CLEC costs into access rates. By analyzing the IXC data on actual amounts billed and actual minutes of use, we can calculate composite access rates and largely avoid the problems that arise from the fact that CLEC rate structures vary widely and that many rely, in part, on flat-rated, or distance-sensitive, charges. Taken together, the IXC submissions show a range of 0.4 cents to 9.5 cents per minute for CLEC-provided switched access service. From the underlying, individual CLEC data, we have determined the average, weighted by minutes of use, for tariffed access rates.

16. It is important that the benchmark, though within this range, also move CLEC access charges appreciably closer to the competing ILEC rate. Accordingly, setting the initial benchmark toward the lower end of the range appears to be justified. Based on our review of the universe and concentration of tariffed access rates being charged to these three IXCs, we conclude that—again, subject to certain exceptions that we discuss—our safe harbor for CLEC tariffed access rates will begin at 2.5 cents. This rate is within the current range of rates, but represents an appreciable reduction in the tariffed rate for many CLECs.

17. We draw additional support for this initial benchmark level from a consensus solution submitted by parties on both sides of the present dispute. In comments to the *Safe Harbor Public Notice,* 65 FR 77545, December 12, 2000, the Association for Local Telecommunications Services (ALTS) filed a proposed resolution, negotiated with WorldCom, suggesting, in relevant part, that a benchmark of 2.5 cents per minute for CLEC tariffed access rates would be a reasonable one in at least some markets. It appears that this rate is acceptable to a substantial number of CLECs, although it represents a significant reduction in access rates.

18. On the effective date of the rules we promulgate today, CLECs will be permitted (subject to a rural exemption discussed) to tariff their access rates, for those areas where they have previously offered service, at either the benchmark of 2.5 cents per minute, or the rate of the corresponding incumbent carrier in the study area of the relevant end-user customer, whichever is higher. One year after the effective date of these rules, the benchmark rate will drop from 2.5 to 1.8 cents per minute, or the ILEC rate, whichever is higher. On the second anniversary of the rules' effective date, the rate will drop to 1.2 cents per minute, or the ILEC rate, whichever is higher. Finally, three years after the rules become effective, the benchmark figure will drop to the switched access rate of the competing ILEC. It will remain at that level through the rule's fourth year. We conclude that such a transition period is appropriate because, as discussed, we are concerned about the effects of a flash-cut to the ILEC rate.

19. By moving CLEC tariffs to the ''rate of the competing ILEC'' we do not intend to restrict CLECs to tariffing solely the per-minute rate that a particular ILEC charges for its switched, interstate access service. We intend to permit CLECs to receive revenues equivalent to those the ILECs receive *from IXCs,* whether they are expressed as per-minute or flat-rate charges. For example, CLECs shall be permitted to set their tariffed rates so that they receive revenues equivalent to those that the ILECs receive through the presubscribed interexchange carrier charge (PICC), to the extent that it survives in the wake of our *CALLS Order.* This does not entitle CLECs to build into their tariffed per-minute access rates a component representing the subscriber line charge (SLC) that ILECs impose on their end users, or any other charges that ILECs recover from parties other than the IXCs to which they provide access service.

20. A number of CLEC commenters urge the Commission not to set the benchmark at ''the ILEC rate'' because they claim that CLECs structure their service offerings differently than ILECs. We seek to preserve the flexibility which CLECs currently enjoy in setting their access rates. Thus, in contrast to our regulation of incumbent LECs, our benchmark rate for CLEC switched access does not require any particular rate elements or rate structure; for example, it does not dictate whether a CLEC must use flat-rate charges or per-minute charges, so long as the composite rate does not exceed the benchmark. Rather it is based on a per-minute cap for all interstate switched access service charges. In this regard, there are certain basic services that make up interstate switched access service offered by most carriers. Switched access service typically entails a connection between the caller and the local switch, a connection between the LEC switch and the serving wire center (often referred to as ''interoffice transport''), and an entrance facility which connects the serving wire center and the long distance company's point of presence. Using traditional ILEC nomenclature, it appears that most CLECs seek compensation for the same basic elements, however precisely named common line charges; local switching; and transport. The only requirement is that the aggregate charge for these services, however described in their tariffs, cannot exceed our benchmark. In addition, by permitting CLECs to decide whether to tariff within the safe harbor or to negotiate terms for their services, we allow CLECs additional flexibility in setting their rates and the amount that they receive for their access services.

21. We will apply the benchmark for both originating and terminating access charges. That is, it will apply to tariffs for both categories of service, including to toll-free, 8YY traffic, and will decline toward the rate of the competing ILEC for each category of service. We note, however, that shortly before the issuance of this order, AT&T raised questions regarding the application of our benchmark to originating 8YY traffic generated by CLEC customers. Because these issues arose so late in the proceeding, and because of the sparse record on them, we decline to do as AT&T suggests and immediately detariff this category of CLEC services above the rate of the competing ILEC. Instead, in this order, we solicit comment on the issues AT&T has raised so that we may decide them on an adequately developed record.

22. Our benchmark mechanism may create the possibility for carriers with lower rates to raise their rates to the benchmark. We seek to avoid this result, which could have the consequence of *increasing* the amount that IXCs pay for some CLECs' access service. This, in turn, would again allow these CLECs to

shift a portion of their costs onto the long distance market generally. Accordingly, we further restrict the tariff benchmark that may be charged to a particular IXC by tariff to the lower of: (1) The 2.5 figure, declining as discussed, or (2) the lowest rate that a CLEC has tariffed for access, during the 6 months immediately preceding the effective date of these rules. Any rate above this level (unless it is still below the competing ILEC's rate) will be conclusively deemed to be unreasonable in any proceeding challenging the rate. Additionally, we expect that our benchmark rule will have no effect on negotiated contracts, under which CLECs have chosen to charge even more favorable access rates to particular IXCs. Rather, these contracts will remain in place and the participating IXCs will continue to be entitled to any lower access rates for which they provide.

23. We also find that it is prudent to permit CLECs to tariff the benchmark rate for their access services only in the markets where they have operations that are actually serving end-user customers on the effective date of these rules. We intend the declining benchmark scheme to wean competitive carriers off of their dependence on tariffed, supra-ILEC access rates without the disruption of a flash-cut to the prevailing market rate. We therefore think it important to ensure that this transitional mechanism serves that purpose, rather than presenting CLECs with the opportunity to enter additional markets in a potentially inefficient manner through reliance on tariffed access rates above those of the competing ILEC. Accordingly, we restrict the availability of the transitional benchmark rate to those metropolitan statistical areas (MSAs) in which CLECs are actually serving end users on the effective date of these rules. In MSAs where they begin serving end users *after* the effective date of these rules, we permit CLECs to tariff rates only equivalent to those of the competing ILEC; they will have to achieve rates above this level by negotiation.

D. Safe Harbor Rates for Rural CLECs

24. Limiting CLECs to the higher of the benchmark rate or the access rate of its ILEC competitor could prove rather harsh for some of the small number of CLECs that operate in rural areas. The difficulty would likely arise for those CLECs that operate in a rural area served by a price-cap incumbent with state-wide operations. Our rules require such ILECs to geographically average their access rates. During the course of this proceeding, we became concerned that tying the access rates of rural CLECs to those of such non-rural ILECs could unfairly disadvantage CLECs that lacked urban operations with which they could similarly subsidize their service to rural areas.

1. Whether To Create a Rural Exemption

25. We conclude that the record supports the creation of a rural exemption to permit rural CLECs competing with non-rural ILECs to charge access rates above those charged by the competing ILEC. First, we note that such a device is consistent with the Commission's obligations, under section 254(d)(3) of the Act and section 706 of the 1996 Act, to encourage the deployment to rural areas of the infrastructure necessary to support advanced telecommunications services and of the services themselves. The record indicates that CLECs often are more likely to deploy in rural areas the new facilities capable of supporting advanced calling features and advanced telecommunications services than are non-rural ILECs, which are more likely first to deploy such facilities in their more concentrated, urban markets. Given the role that CLECs appear likely to play in bringing the benefits of new technologies to rural areas, we are reluctant to limit unnecessarily their spread by restricting them to the access rates of non-rural ILECs.

26. We are persuaded by the CLEC comments indicating that they experience much higher costs, particularly loop costs, when serving a rural area with a diffuse customer base than they do when serving a more concentrated urban or suburban area. The CLECs argue that, lacking the lower-cost urban operations that non-rural ILECs can use to subsidize their rural operations, the CLECs should be permitted to charge more for access service, as do the small rural incumbents that charge the National Exchange Carrier Association (NECA) schedule rates. We note in this regard that a rural exemption will also create parity between the rural CLECs competing with NECA carriers and those competing with non-rural ILECs.

27. In adopting the rural exemption, we reject the characterization of the exemption as an implicit subsidy of rural CLEC operations. It is true that an exemption scheme will permit rural CLECs to charge IXCs more for access to their end-user customers than was charged by the non-rural ILECs from whom the CLECs captured their customers. The exemption we adopt today merely deprives IXCs of the implicit subsidy for access to certain rural customers that has arisen from the fact that non-rural ILECs average their access rates across their state-wide study areas.

28. Our level of comfort in creating a rural exemption is markedly increased by the fact that the record indicates it likely will apply to a small number of carriers serving a tiny portion of the nation's access lines. The Rural Independent Competitive Alliance (RICA) asserts that, fewer than 100,000 access lines are served by carriers falling in the definition that it proffers for a rural CLEC.

29. We reject AT&T's argument that CLECs must rely solely on the *CALLS Order's* interstate access support when entering the territories of non-rural ILECs. This interstate access support mechanism is portable, but that does not necessarily indicate that it fully reflects the costs (above those recovered through ILEC access rates) that a rural CLEC would encounter in serving customers in the high-cost areas for which the subsidy is available.

30. We are also skeptical of AT&T's assertions about the incentives that would flow from a rural exemption. First, AT&T argues that the exemption would ''create perverse incentives for uneconomic competitive entry by CLECs in any ''rural'' areas in which it might be applicable.'' It appears from the record that both AT&T and Sprint have routinely been paying for CLEC access billed at the rate charged by the competing incumbent. If AT&T were accurate in its projection about higher access rates spurring a rash of uneconomic market entry in rural areas, such uneconomic entry should already have occurred in the territories of the rural incumbent carriers that charge the higher NECA rates. However, the record fails to indicate such a trend.

31. We thus conclude that the record supports the creation of a rural exemption to the benchmark scheme that we adopt for CLEC access charges. Under this exemption, a CLEC that is operating in a rural area, as defined, and that is competing against a non-rural ILEC may tariff access rates equivalent to those of NECA carriers.

2. Carriers Eligible for Rural Exemption

32. Administrative simplicity is an important consideration in our choice of a way to define rural CLECs. Thus, we conclude that the availability of the exemption (and the higher access rates that come with it) should be determined based on the CLEC's entire service area, not on a subscriber-by-subscriber basis. Similarly, we are concerned that the definition rely on objectively available information that will not require extensive calculation or analysis by either carriers or this Commission.

33. We conclude that the rural exemption to our benchmark limitation on access charges will be available for a CLEC competing with a non-rural ILEC, where no portion of the CLEC's service area falls within any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or an urbanized area, as defined by the Census Bureau. Thus, if any portion of a CLEC's access traffic originates from or terminates to end users located within either of these two types of areas, the carrier will be ineligible for the rural exemption to our benchmark rule. Relying on information that is readily and publicly available, this definition excludes from the exemption those CLECs operating within reasonably dense areas that are not typically considered to be rural. It does not, however, exclude from eligibility entire counties that border high population areas, as would a definition based on MSAs.

34. Sprint has raised the issue of how best to ensure that the rural exemption does not create the potential for abuse and that it is restricted to CLECs that are serving rural end users. Thus, Sprint is concerned about the potential for competitive carriers, with some qualifying end users, creating two separate operating entities so that the one serving rural end users could tariff the higher access rate permitted under the exemption. While we want to forestall that strategy for exploiting our rule, we also realize that certain incumbents with urban (or non-rural) operations may choose to enter adjacent rural markets as a competitive carrier. To the extent that such carriers provide the benefit of competition in rural markets, their non-qualifying incumbent operations should not operate entirely to deny them the benefit of the rural exemption. Accordingly, we decline Sprint's invitation to examine all of the subsidiary operations of a holding company in order to determine the applicability of the rural exemption. We expect that we will be able to address, on a case-by-case basis, the improper exploitation of our rule—such as a competitive carrier's splitting itself into two subsidiaries to qualify, in part, for the exemption rates where it would not otherwise do so.

35. Our definition for rural CLECs closely resembles the first major division of the Act's definition for rural telephone companies. It departs from the remaining three major divisions of the definition either because they would be administratively burdensome, or because they would be overly inclusive or irrational when applied solely to CLECs. Our definition adopts 50,000, rather than 10,000, as the population cut-off for incorporated places because we are concerned that, without the statute's remaining three portions of the definition as a way for a company to attain rural status, the 10,000-person threshold would be unduly restrictive and deny the exemption to companies operating in areas that would generally be viewed as rural.

36. This exemption will permit a CLEC to tariff access rates above the competing ILEC's only when the competing ILEC has broad-based operations that include concentrated, urban areas that allow it to subsidize its rural operations and therefore charge an artificially low rate for access to its rural customers. We conclude that the most effective and objective means of accomplishing this is to allow the rural exemption only to those CLECs that are competing with price-cap ILECs that do not qualify as ''rural telephone companies'' under the Act's definition. Those CLECs competing with carriers that qualify as rural under the Act's definition are excluded from the rural exemption and are therefore limited, under the rule we announced, to tariffing access rates equal only to those of the competing ILEC.

3. Rate for Exemption Carriers

37. The final question with respect to the rural exemption is what the access service benchmark is for those carriers that qualify. We adopt the NECA tariff for switched access service as the standard that is the most appropriately reflective of the considerations that should go into pricing the access service of rural CLECs. Accordingly, qualifying rural CLECs may tariff rates at the level of those in the NECA access tariff, assuming the highest rate band for local switching and the transport interconnection charge, *minus* the tariff's carrier common line (CCL) charge if the competing ILEC is subject to our *CALLS Order.* Above this benchmark, rural CLECs will be mandatorily detariffed in their provision of access services.

38. We adopt the NECA access rate because it is tariffed on a regular basis and is routinely updated to reflect factors relevant to pricing rural carriers' access service. We choose the highest rate bands for the two variable rate elements because the opportunity to tariff those rates will most effectively spur the development of local-service competition in the nation's rural markets and because the burden created by choosing the highest rate will be relatively minor, owing to the small number of carriers involved. We deny rural CLECs the NECA tariff's CCL charge when they compete with a *CALLS* ILEC because the price-cap LECs' CCL charge has been largely eliminated through implementation of higher subscriber line charge (SLC) caps and the multi-line business PICC. CLECs competing with *CALLS* ILECs are free to build into their end-user rates a component approximately equivalent to (or slightly below) the ILEC's SLC, as well as assessing IXCs a multi-line business PICC. These potential revenue sources obviate the need for a CCL charge, which NECA carriers use to recover loop costs that cannot be recovered because of their lower SLC caps and the absence of PICCs.

E. Forbearance Analysis for Rates Above the Benchmark

39. Section 10 of the Act requires, *inter alia,* that the Commission forbear from applying any regulation or provision of the Act to telecommunications carriers or telecommunications services, or classes thereof, if the Commission determines that certain statutory conditions are satisfied. Because section 10 permits us to exercise our forbearance authority with respect to classes of services, we conduct a forbearance analysis only for those CLEC interstate access services for which the aggregate charges exceed our benchmark. For this class of services, we conclude that the section 10 forbearance criteria are satisfied; accordingly, we must take action pursuant to the terms of this statute.

40. Under the first criterion for forbearance, we examine whether our tariff filing requirements for CLEC interstate access services priced above the benchmark are necessary to ensure that rates for these services are just and reasonable and not unreasonably discriminatory. We conclude they are not. As noted, CLECs are positioned to wield market power with respect to access service. Requiring CLECs to negotiate with their IXC customers in order to obtain access rates above the benchmark will limit the CLECs' ability to exercise this market power and unilaterally impose rates above the level that we have found to be presumptively reasonable.

41. We are not persuaded by CLEC commenters that contend they will be unable to negotiate agreements with IXCs because IXCs wield significant market power in the purchase of access services. We find these claims of IXC monopsony power unsupported in the record. We note that three major IXCs are purchasers in the market for access services, and numerous smaller players also purchase LEC access services.

Moreover, we note that our tariff rules were historically intended to protect purchasers of services from monopoly providers, not to protect sellers from monopsony purchasing power. We conclude that other remedies, like those under the antitrust laws, are available to protect CLECs from the exploitation of any monopsony power that IXCs may possess.

42. Under the second forbearance criterion, we must determine whether tariffing of CLEC access charges above the benchmark is necessary to protect consumers. Requiring negotiation of access rates above the benchmark will provide greater assurance that the rates are just and reasonable and will likely prevent CLECs from using long distance ratepayers to subsidize their operational and build-out expenses. It is possible that the reduction of CLEC access revenue caused by the benchmark scheme will increase the rates CLECs charge their end users. However, all CLEC end users have competitive alternative service providers, in the form of regulated incumbents. We are therefore not concerned that any increase in CLEC end-user rates will unduly harm consumers. To the extent that this provision requires us to examine the effect on the IXC consumers of CLEC access services, mandatory detariffing likely will protect that group by removing the CLEC's ability unilaterally to impose excessive rates through the tariff process.

43. The third forbearance criterion requires that we determine whether mandatory detariffing of CLEC access services priced above the benchmark is consistent with the public interest and, in particular, whether it will promote competitive market conditions. We conclude, as discussed, that adopting mandatory detariffing for access rates in excess of the safe harbor limit will subject to negotiation between two willing parties any access services offered at a rate above the benchmark. The negotiation-driven approach that we adopt will provide a better mechanism for IXCs to control costs, since they will not be subject to tariffs with unilaterally established rates at excessive levels. In addition, our benchmark system, with its presumption that qualifying rates are reasonable, will provide greater certainty for CLECs that they will receive full compensation for the access services that they provide. By limiting a CLEC's ability to shift its start-up costs onto the long-distance market, our benchmark approach will restrict market entry to the efficient providers. Accordingly, mandatory detariffing of CLEC access services above the benchmark fulfills all three of the criteria for forbearance.

III. Interconnection Obligations

44. Although we have created a safe harbor for CLEC access rates, within which they will be presumed to be just and reasonable, the question remains of whether and under what circumstances an IXC can decline to provide service to the end users of a CLEC.

A. Interconnection and Sections 201 and 251

45. Sections 201(a) and 251(a)(1) do not expressly require IXCs to accept traffic from, and terminate traffic to, all CLECs, regardless of their access rates. The Commission has previously found that a section 251(a)(1) duty to interconnect, directly or indirectly, is central to the Communications Act and achieves important policy objectives. However, the Commission construed the statute to require only the physical linking of networks, not to impose obligations relating to the transport and termination of traffic. Section 201 empowers the Commission, after a hearing and a determination of the public interest, to order the physical connection of networks and to establish routes and charges for certain communications. This also falls short of creating the blanket duty that the CLECs seek to impose on the IXCs to accept all access service, regardless of the rate at which it is offered. Certainly, we have made no finding that the public interest dictates such broad acceptance of access service, whatever its price. Nevertheless, we conclude that section 201(a) places certain limitations on an IXC's ability to refuse CLEC access service.

46. We agree that universal connectivity is an important policy goal that our rules should continue to promote. The public has come to value and expect the ubiquity of the nation's telecommunications network. Accordingly, any solution to the current problem that allows IXCs unilaterally and without restriction to refuse to terminate calls or indiscriminately to pick and choose which traffic they will deliver would result in substantial confusion for consumers, would fundamentally disrupt the workings of the public switched telephone network, and would harm universal service.

47. We therefore conclude that an IXC that refuses to provide service to an end user of a CLEC charging rates within the safe harbor, while serving the customers of other LECs within the same geographic area, would violate section 201(a). That section imposes on common carriers the obligation to furnish communication service ''upon reasonable request therefor.'' As set out above, we will conclusively presume that a CLEC's access rates are reasonable if they fall at or below the benchmark that we establish herein. When an IXC's end-user customer attempts to place a call either from or to a local access line, that customer makes a request for communication service—from the originating LEC, the IXC and the terminating LEC. When that customer attempts to call from and/or to an access line served by a CLEC with presumptively reasonable rates, that request for communications service is a reasonable one that the IXC may not refuse without running afoul of section 201(a). This obligation may be enforced through a section 208 complaint before the Commission.

B. Section 214 and Discontinuance of Service

48. Section 214 of the Communications Act and 63.71 of the Commission's rules govern an IXC's withdrawal of service. Section 214 of the Communications Act provides, in relevant part, that ''[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby.'' In light of the solution we adopt herein, we need not address the application of either section 214 or our rule 63.17.

49. We conclude that it would be a violation of section 201(a) for an IXC to refuse CLEC access service, either terminating or originating, where the CLEC has tariffed access rates within our safe harbor and, in the case of originating access, where the IXC is already providing service to other members in the same geographical area. Since section 201(a) already prohibits such a withdrawal of service, we need not address the question of whether section 214 applies to an IXC that finds itself in that position.

50. The remaining possible scenario to which section 214 might apply is that in which a CLEC wishes to charge access rates above our benchmark and an IXC will not agree to pay them. Under the rules we adopt today, a CLEC must charge the benchmark rate during the pendency of negotiations or if the parties cannot agree to a rate in excess of the benchmark. In either case, since the benchmark rate is conclusively presumed reasonable, an IXC cannot refuse to provide service to an end user served by the CLEC without violating

section 201. Here again, we need not address the applicability of section 214.

IV. Procedural Matters

A. Paperwork Reduction Act

51. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose new or modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the PRA, and will go into effect upon announcement in the **Federal Register** of OMB approval.

B. Final Regulatory Flexibility Analysis

52. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Pricing *Flexibility Order and Further Notice,* 64 FR 51280, September 22, 1999. The Commission sought written comments on the proposals in the *Pricing Flexibility Order and Further Notice,* including the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this order conforms to the RFA, as amended.

1. Need for, and Objectives of, the Proposed Action

53. With this order, we address a number of interrelated issues concerning charges for interstate switched access services provided by competitive local exchange carriers (CLECs) and the obligations of interexchange carriers (IXCs) to exchange access traffic with CLECs. In so doing, we seek to ensure, by the least intrusive means possible, that CLEC access charges are just and reasonable. We also seek to reduce regulatory arbitrage opportunities that previously have existed with respect to tariffed CLEC access services. This order is designed to spur more efficient local competition and to avoid disrupting the development of competition in the local telecommunications market.

54. We accomplish these goals by revising our tariff rules more closely to align tariffed CLEC access rates with those of the incumbent LECs. Under the detariffing regime we adopt, CLEC access rates that are at or below the benchmark that we set will be presumed to be just and reasonable and CLECs may impose them by tariff. Above the benchmark, CLEC access services will be mandatorily detariffed, so CLECs must negotiate higher rates with the IXCs. However, to avoid too great a disruption for competitive carriers (many of which may fall within the SBA's definition of a small entity), we implement this approach in a way that will cause CLEC tariffs to ramp down over time until they reach the level tariffed by the incumbent LEC. This mechanism will mimic the operation of the marketplace, as competitive LECs ultimately will have tariffed rates at or below the prevailing market price. At the same time, this approach maintains the ability of CLECs to negotiate access service arrangements with IXCs at any mutually agreed upon rate. In this order, we also make clear that an IXC's refusal to serve the customers of a CLEC that tariffs access rates within our safe harbor constitutes a violation of the duty of all common carriers to provide service upon reasonable request.

2. Summary of Significant Issues Raised by Public Comment in Response to the IRFA

55. In the *Pricing Flexibility Order and Further Notice,* we sought comment on various, alternative proposals to prevent CLECs from charging unreasonable rates for their switched access services. In the IRFA, we tentatively concluded that the proposed rule changes would have no effect on the administrative burdens of competitive LECs because they would have no additional filing requirement. In response to the Further Notice, we received comments from more than 40 parties and held a series of ex parte meetings addressing these issues. Among those parties, only ALLTEL and the Rural Independent Competitive Alliance (RICA) commented specifically on the IRFA.

56. We disagree with ALLTEL's contention that the Commission's IRFA was incomplete. ALLTEL argues that the Commission, in the IRFA, did not adequately address proposals in the Further Notice that might affect originating access and ''open-end'' access services; the potential burden on CLECs to modify their tariffs or to eliminate those tariffs and negotiate individual contracts; and potential burdens on other carriers, such as ILECs (which, ALLTEL asserts, might have to modify their tariffs and perform cost studies). To the contrary, for several different reasons, we conclude that the IRFA gave adequate notice of our proposals to address CLEC access service. First, we chose to discuss, in the IRFA, the primary proposals set out in the Notice, though we sought comment in the Notice on a number of variations to those primary proposals. Thus, while the IRFA only expressly mentions proposals to address terminating access, it includes cross-references to the text of the Further Notice, which discusses all variations of the Commission's proposals. Moreover, we observe that the Further Notice and the IRFA were sufficient to generate a very sizable record, including comments from many competitive LECs that likely would be considered small businesses under the closest applicable SBA definition. The IRFA provided sufficient information so that the public could react to the Commission's proposals in an informed manner.

57. Second, with respect to the administrative burdens associated with our proposals in the Further Notice, we have reconsidered our tentative conclusion to adopt mandatory detariffing. We note that many commenters, large and small, oppose the Commission's proposal to adopt mandatory detariffing for all CLEC access services. These commenters, like ALLTEL, argue that while mandatory detariffing would reduce burdens associated with filing tariffs, it would increase administrative burdens overall by imposing greater transaction costs on CLECs and IXCs. Having received these almost unanimous comments, we conclude that we should not adopt our proposal to implement mandatory detariffing, at this time. Rather, we only adopt mandatory detariffing to the extent that a CLEC chooses to charge a rate that exceeds our defined benchmark. Under this approach, CLECs and IXCs—both large and small— will be able to continue to enjoy the benefits of a tariffed service.

58. Similarly, we take into account RICA's assertion that mandatory detariffing, as proposed, might cause particular hardship for CLECs operating in rural areas. Again, we have factored these comments into our decision to adopt a benchmark system, pursuant to which CLECs will continue to be permitted to file tariffs for their switched access services. Thus, we believe that our approach adequately addresses the concerns of these CLEC commenters. Moreover, we restate that our decision to detariff rates above the benchmark was motivated by our conclusion that rates above that level would be excessive (absent an agreement between the parties) and would place an inappropriate burden on IXCs and long distance customers. In this regard, we note that even the small CLECs covered by our RFA analysis are clearly prohibited by the Act and our rules from charging unjust or unreasonable rates. This order is designed to prevent such unjust or unreasonable rates.

59. Finally, we reject ALLTEL's assertion that the proposals in the Notice would place additional regulatory burden on ILECs. The proposals applied solely to CLECs and IXCs and we find ALLTEL's arguments to be unsupported in the record.

60. Although not responding specifically to the IRFA, many parties commented generally on the potential regulatory burdens associated with the Commission's various proposals. In brief, IXC commenters typically sought a mechanism to constrain CLEC access charges. In contrast, CLEC commenters typically sought to preserve their freedom to set access rates as they choose. We note that there are small entities on both sides of this debate. We encourage readers of this FRFA also to consult the complete text of this order, which describes in detail our analysis of the issues.

3. Description and Estimate of the Number of Small Entities To Which the Rules Apply

61. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. To estimate the number of small entities that may be affected by the proposed rules, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that is independently owned and operated; is not dominant in its field of operation; and meets any additional criteria established by the SBA. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.

62. The rules adopted in this order apply to CLECs and IXCs. Neither the Commission nor the SBA has developed a definition of small CLECs or small IXCs. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that telecommunications carriers file annually in connection with the Commission's universal services requirements. According to our most recent data, 349 companies reported that they were engaged in the provision of either competitive access services or competitive local exchange services (referred to collectively as CLECs) and 204 companies reported that they were engaged in the provision of interexchange services. Among these companies, we estimate that approximately 297 of the CLECs have 1500 or fewer employees and that approximately 163 of the IXCs have 1500 or fewer employees. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are 297 or fewer small CLECs, and 163 or fewer small IXCs that may be affected by the decisions and rules adopted in this order.

4. Description of Reporting, Recordkeeping, and Other Compliance Requirements

63. ALLTEL asserts that the Commission's proposals in the Further Notice ''could require CLECs to modify their tariffs or to eliminate those tariffs and negotiate individual contracts.'' This argument was echoed by other commenters who assert that the Commission's proposal to adopt mandatory detariffing would increase carriers' transaction costs, even though tariff filing requirements would be eliminated. We acknowledge these concerns and have decided not to adopt mandatory detariffing for all CLEC switched access services, at this time.

64. Thus, pursuant to this order, we allow competitive LECs to continue to file tariffs, as long as the rates for those services are within the defined safe harbor. We recognize that many CLECs—we estimate between 100–150 CLECs—may be required to re-file their tariffs in order to comply with this order. Given that ALTS, an organization which represents many CLECs, has supported this proposal, we believe that any increased burden will be outweighed by the benefits associated with resolving these issues. Further, we conclude that it is a burden that is justified by the Act's requirement that all rates be just and reasonable. We are optimistic that this approach will provide a bright line rule that permits a simple determination as to whether CLEC access charges are just and reasonable and, at the same time, will enable both sellers and purchasers of CLEC access services to avail themselves of the convenience of a tariffed service offering. Thus, we believe that this approach should minimize reporting and recordkeeping requirements on IXCs and CLECs, including any small entities, while also providing carriers with considerable flexibility.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

65. Through this order, we seek to resolve contentious issues that have arisen with respect to CLEC switched access services. Because there are both small entity IXCs and small entity CLECs '' often with conflicting interests in this proceeding—we expect that small entities will be affected by any approach that we adopt. As discussed, we conclude that our approach best balances these goals by removing opportunities for regulatory arbitrage and minimizing the burdens placed on carriers.

66. In this order, we adopt a benchmark approach to CLEC access charges. We find that this approach will minimize the impact of the rules on small entities in several ways. First, it allows small business CLECs to continue to enjoy the convenience of offering a tariffed service, an advantage sought by CLECs, many of which may be relatively new and small businesses. Second, it will enable small IXCs to purchase most access services via tariff, rather than having to negotiate agreements with every CLEC. Finally, our approach ensures that IXCs will continue to accept and pay for CLEC switched access services, as long as the CLEC tariffs rates within the Commission's benchmarks. Many CLECs argued that such an outcome was essential for new, relatively small CLECs to continue to offer services.

67. In this order, we consider and reject several alternatives to the benchmark approach. In particular, we also considered continuing to rely on market forces to constrain CLEC switched access charges; adopting a mandatory detariffing policy, which would prohibit CLECs from filing any tariffs for their switched access services; and, subjecting CLECs to the panoply of regulation with which incumbents must comply.

68. Although many CLECs contend that the Commission need not take any particular action with respect to CLEC

switched access charges, we disagree. We conclude that our action is compelled by several factors, including our desire to reduce regulatory arbitrage opportunities and to revise our rules to allow competitive market forces to constrain CLEC access charges; growing evidence that CLEC switched access charges do not appear to be constrained by market forces; significant concerns that allowing IXCs to refuse to exchange traffic without restriction may lead to a decline in the universal connectivity upon which telephone users have come to rely.

69. On the other hand, we do not impose mandatory detariffing for all CLEC switched access services because we believe that our benchmark approach will provide a less drastic alternative for carriers, including small entity CLECs and small entity IXCs. For example, by enabling CLECs to continue to file tariffs within a safe harbor range, we respond to concerns expressed by many CLECs that complete detariffing of CLEC services would cause significantly increased transaction costs. We note, as well, that many IXC commenters supported this solution.

70. We also conclude that our benchmark approach is more desirable than subjecting CLECs to the panoply of ILEC regulation. The Commission has long stated its desire to allow competitive forces to constrain access charges. By adopting a benchmark approach, we continue to allow CLECs to tariff their services, while ensuring IXCs and long distance customers, generally, that CLEC rates will be just and reasonable. We note that no commenter favors subjecting CLECs to dominant carrier regulation.

71. We also adopted a transition mechanism that should minimize the impact of the decision on all carriers, including small entities. While we considered adopting a benchmark that would immediately drop CLEC access rates to that level charged by the competing incumbent LEC, we instead implement the benchmark through a three-year transition. This will allow CLECs, including any small businesses, a period of flexibility during which they can conform their business models to the new market paradigm that we adopt, herein. At the same time, by effecting significant reductions in switched access charges immediately, we will minimize the impact that excessive access rates might have on IXCs, including any small businesses. We believe that this transition should significantly reduce the impact of this order on small businesses.

72. In addition, by clarifying rules for the transport and origination of traffic between CLECs and IXCs, this order should continue to ensure the ubiquity of a fully interconnected telecommunications network that consumers have come to expect. We considered counter-proposals from some carriers that there should be no obligation to exchange traffic; however, we believe that our approach will best satisfy the expectations of end users who have come to rely on a seamless, fully-interconnected telephone network. Further, these rules should provide considerable assurance to CLECs, many of which may be small businesses, that seek to offer their customers access to the broadest range of IXCs possible. Many of these CLECs asserted that, without such a rule, larger, more established IXCs likely would refuse to exchange traffic with them, essentially driving them out of business. Our rules should address this concern by requiring IXCs to exchange traffic with CLECs that tariff rates within the benchmark, where IXCs already exchange traffic with other carriers in the same geographic area.

73. Overall, we believe that this order best balances the competing goals that we have for our rules governing CLEC switched access charges. We have not identified any additional alternatives that would have further limited the impact on small entities across-the-board while remaining consistent with Congress' pro-competitive objectives set out in the 1996 Act.

74. *Report to Congress:* The Commission will send a copy of this *CLEC Access Charge Reform Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this *CLEC Access Charge Reform Order,* including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *CLEC Access Charge Reform Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

V. Ordering Clauses

75. Pursuant to sections 1–5, 201–205, 303(r), 403, 502, and 503 of the Communications Act of 1934, as amended, this Report and Order, with all attachments, including revisions to part 61 of the Commission's rules, is hereby adopted.

76. The rule revisions adopted in this Order shall become effective thirty days after publication in the **Federal Register**.

77. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this CLEC Access Charge Order, including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 61 as follows:

PART 61—TARIFFS

Subpart C—General Rules for Nondominant Carriers

1. The authority citation for part 61 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 4(j), 201–205 and 403 unless otherwise noted.

2. Add § 61.26 to subpart C to read as follows:

§ 61.26 Tariffing of competitive interstate switched exchange access services.

(a) *Definitions.* For purposes of this section 61.26, the following definitions shall apply:

(1) *CLEC* shall mean a provider of interstate exchange access services that does not fall within the definition of ''incumbent local exchange carrier'' in 47 U.S.C. 251(h).

(2) *Competing ILEC* shall mean the incumbent local exchange carrier, as defined in 47 U.S.C. 251(h), that would provide interstate exchange access service to a particular end user if that end user were not served by the CLEC.

(3) *Interstate switched exchange access services* shall include the functional equivalent of the ILEC interstate exchange access services typically associated with following rate elements: carrier common line (originating); carrier common line (terminating); local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem switched transport facility (per mile); tandem switching.

(4) *Non-rural ILEC* shall mean an incumbent local exchange carrier that is not a *rural telephone company* under 47 U.S.C. 153(37).

(5) The *rate* for interstate switched exchange access services shall mean the composite, per-minute rate for these

services, including all applicable fixed and traffic-sensitive charges.

(6) *Rural CLEC* shall mean a CLEC that does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either:

(i) Any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or

(ii) An urbanized area, as defined by the Census Bureau.

(b) Except as provided in paragraphs (c) and (e) of this section, a CLEC shall not file a tariff for its interstate switched exchange access services that prices those services above the higher of:

(1) The rate charged for such services by the competing ILEC or

(2) The lower of:

(i) The benchmark rate described in paragraph (c) of this section or

(ii) The lowest rate that the CLEC has tariffed for its interstate exchange access services, within the six months preceding June 20, 2001.

(c) From June 20, 2001 until June 20, 2002, the benchmark rate for a CLEC's interstate switched exchange access services will be $0.025 per minute. From June 20, 2002 until June 20, 2003, the benchmark rate for a CLEC's interstate switched exchange access services will be $0.018 per minute. From June 20, 2003 until June 21, 2004, the benchmark rate for a CLEC's interstate switched exchange access services will be $0.012 per minute. After June 20, 2005, the benchmark rate for a CLEC's interstate switched exchange access services will be the rate charged for similar services by the competing ILEC, *provided, however,* that the benchmark rate for a CLEC's interstate switched exchange access services will not move to bill-and-keep, if at all, until June 20, 2005.

(d) Notwithstanding paragraphs (b) and (c) of this section, in the event that, after June 20, 2001, a CLEC begins serving end users in a metropolitan statistical area (MSA) where it has not previously served end users, the CLEC shall not file a tariff for its interstate exchange access services in that MSA that prices those services above the rate charged for such services by the competing ILEC.

(e) *Rural exemption.* Notwithstanding paragraphs (b) through (3) of this section, a rural CLEC competing with a non-rural ILEC shall not file a tariff for its interstate exchange access services that prices those services above the rate prescribed in the NECA access tariff, assuming the highest rate band for local switching and the transport interconnection charge. If the competing ILEC is subject to the Commission's *CALLS Order,* 65 FR 38684, June 21, 2000, this rate shall be reduced by the NECA tariff's carrier common line charge.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF61

Endangered and Threatened Wildlife and Plants; Final Rule for Endangered Status for *Astragalus pycnostachyus* var. *lanosissimus* (Ventura marsh milk-vetch)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status for *Astragalus pycnostachyus* var. *lanosissimus* (Ventura marsh milk-vetch) pursuant to the Endangered Species Act (Act) of 1973, as amended. Historically known from a three-county region in coastal southern California, *A. pycnostachyus* var. *lanosissimus* was believed extinct until its rediscovery in 1997. The only known extant population of this recently rediscovered plant occurs in Ventura County, California, on less than 1 acre of degraded dune habitat that was previously used for disposal of petroleum wastes. The most significant current threats to *A. pycnostachyus* var. *lanosissimus* are direct destruction of this population from proposed soil remediation, residential development, and associated activities. This taxon is also threatened by unanticipated human-caused and natural events that could eliminate the single remaining population. Competition from nonnative invasive plant species is an additional threat. This action will extend the Act's protection to this plant.

EFFECTIVE DATE: This rule is effective June 20, 2001.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Rick Farris or Lois Grunwald, Ventura Fish and Wildlife Office, at the address above (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Astragalus pycnostachyus var. *lanosissimus* (Ventura marsh milk-vetch) was first described by Per Axel Rydberg (1929) as *Phaca lanosissima* from an 1882 collection by S.B. and W.F. Parish made from ''La Bolsa,'' probably in what is now Orange County, California. The combination *A. pycnostachyus* var. *lanosissimus* was assigned to this taxon by Philip Munz and Jean McBurney in 1932 (Munz 1932).

Astragalus pycnostachyus var. *lanosissimus* is a herbaceous perennial in the pea family (Fabaceae). It has a thick taproot and multiple erect, reddish stems, 40 to 90 centimeters (cm) (16 to 36 inches (in)) tall, that emerge from the root crown. The pinnately compound leaves are densely covered with silvery white hairs. The 27–39 leaflets are 5 to 20 millimeters (mm) (0.2 to 0.8 in) long. The numerous greenish-white to cream colored flowers are in dense clusters and are 7 to 10 mm (0.3 to 0.4 in) long. The calyx teeth are 1.2 to 1.5 mm (0.04 in) long. The nearly sessile, single-celled pod is 8 to 11 mm (0.31 to 0.43 in) long (Barneby 1964). The blooming time has been recorded as July to October (Barneby 1964); however, the one extant population was observed in flower in June 1997. This variety is distinguished from *A. pycnostachyus* var. *pycnostachyus* by the length of calyx tube, calyx teeth, and peduncles. It is distinguished from other local *Astragalus* species by its size, perennial habit, size and shape of fruit, and flowering time.

The type locality is ''La Bolsa,'' where the plant was collected in 1882 by S.B. and W.F. Parish (Barneby 1964). Based on the labeling of other specimens collected by the Parishes in 1881 and 1882, Barneby (1964) suggested that this collection may have come from the Ballona marshes in Los Angeles County. However, Critchfield (1978) believed that ''La Bolsa'' could easily have referred to Bolsa Chica, a coastal marsh system located to the south in what is now Orange County. He noted that Orange County was not made a separate county from Los Angeles until 1889, 7 years after the Parish's collection was made. In the five decades following its discovery, *Astragalus pycnostachyus* var. *lanosissimus* was collected from about four locations in Los Angeles and Ventura counties, three of which are near one another. In Los Angeles County it was collected from near Santa Monica in 1882, the Ballona marshes just to the south in 1902, and ''Cienega'' in 1904, also likely near the Ballona wetlands. In

Ventura County it was collected in 1901 and 1925 from Oxnard and in 1911 from Ventura, a city adjacent to Oxnard. By 1964, Barneby (1964) believed that it had certainly been extirpated from Santa Monica southward, noting that there was still the possibility it survived in Ventura County (although he knew of no locations at that time). The species was briefly rediscovered in 1967 by R. Chase, who collected a single specimen growing by a roadside between the cities of Ventura and Oxnard. Subsequent searches uncovered no other living plants at that location, although some mowed remains discovered on McGrath State Beach lands, across the road from the collection site, were believed to belong to this taxon (information on herbarium label from specimen collected by R.M. Chase, 1967). Floristic surveys and focused searches conducted in the 1970s and 1980s at historic locations failed to locate any *A. pycnostachyus* var. *lanosissimus,* and the plant was presumed extinct (Isley 1986; Spellenberg 1993; Skinner and Pavlik 1994) until June 12, 1997, when a population of the plant was rediscovered by U.S. Fish and Wildlife Service (Service) biologist Kate Symonds, in a degraded coastal dune system near Oxnard, California.

Almost nothing is known of the habitat requirements of *Astragalus pycnostachyus* var. *lanosissimus.* All but two of the known collections of this taxon were made prior to 1930. Specimen labels from these collections and original published descriptions contain virtually no habitat information. The related variety, *Astragalus pycnostachyus* var. *pycnostachyus,* is found in or at the high edge of coastal saltmarshes and seeps. The newly discovered population of *A. pycnostachyus* var. *lanosissimus* occurs in a sparsely vegetated low area, at an elevation of about 10 meters (30 feet), in a site previously used for disposal of petroleum waste products (Impact Sciences, Inc. 1997). Dominant shrub species at the site are *Baccharis pilularis* (coyote brush), *Baccharis salicifolia* (mule fat), *Salix lasiolepis* (arroyo willow), and the nonnative *Myoporum laetum* (myoporum) (Impact Sciences, Inc. 1997). The population itself occurs with sparse vegetative cover provided primarily by *Baccharis pilularis, Baccharis salicifolia,* a nonnative *Carpobrotus* sp. (seafig), and a nonnative annual grass, *Bromus madritensis* ssp. *rubens* (red brome). Soils are reported to be loam-silt loams (Impact Sciences, Inc. 1997). Soils were likely transported from other locations as a cap for the disposal site once it was closed. The Service is not aware of records on the origin of the soil used to cap the waste disposal site; however, because of the costs of transport, the soil source is likely of local origin.

The population of *Astragalus pycnostachyus* var. *lanosissimus* consisted of about 374 plants total in 1997, of which 260 were small plants, thought to have germinated in the last year. Fewer than 65 plants in the population produced fruit in 1997 (Impact Sciences, Inc. 1997). The plants are growing in an area of less than 1 acre, with one outlying plant located 10 to 20 meters (30–60 feet) from the main group in 1997 (D. Steeck, Service, pers. obs. 1997). In 1998, surveys revealed 192 plants. In 1999, Service efforts went into placing hardware cloth cages around a sample of plants. This experimental caging was initiated due to severe herbivory, apparently by small mammals. An estimate of between 30 and 40 plants produced flowers in 1999, believed to be fewer than half of those blooming in 1998 (D. Steeck *in litt.* 1999).

The land on which the only known population of *Astragalus pycnostachyus* var. *lanosissimus* grows is privately owned and a project to decontaminate the soils and construct a housing development on the site has been proposed (Impact Sciences, Inc. 1998). Limited efforts to assist with the conservation of the species have been initiated by the project proponent, the Service, the State, and other cooperators. The project proponent has successfully grown plants in a remote greenhouse facility. Several plants were excavated from the natural population and potted, and several plants were started from seed gathered from the natural population. In addition, we cooperated with the California Department of Fish and Game in making conservation seed collections from the site. This seed was divided into a seed storage collection and a seed bulking project at the Rancho Santa Ana Botanic Gardens.

Previous Federal Action

Federal actions on this taxon began as a result of section 12 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94–51) was presented to Congress on January 9, 1975, and *Astragalus pycnostachyus* var. *lanosissimus* was included on List C, among those taxa believed possibly extinct in the wild. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of its acceptance of the report as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3)) of the Act and its intention to review the status of the plant taxa named therein.

On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. This list, which included *Astragalus pycnostachyus* var. *lanosissimus,* was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Endangered Species Act required that all proposals more than 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In a December 10, 1979, notice (44 FR 70796), the Service withdrew the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. *A. pycnostachyus* var. *lanosissimus* was included in that withdrawal notice.

We published an updated candidate notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Astragalus pycnostachyus* var. *lanosissimus* in a list of category 1 candidate species that were possibly extinct in the wild. These category 1 candidates would have been given high priority for listing if extant populations were confirmed.

The Service maintained *Astragalus pycnostachyus* var. *lanosissimus* as a category 1 candidate in subsequent notices published on November 28, 1983 (48 FR 53640), September 27, 1985 (50 FR 39526), and February 21, 1990 (55 FR 6184). The Service published a notice (58 FR 51144) on September 30, 1993, in which taxa whose existence in the wild was in doubt, including *A. pycnostachyus* var. *lanosissimus,* were moved to Category 2. On February 28, 1996, we published a Notice of Review in the **Federal Register** (61 FR 7596) that discontinued the designation of category 2 species as candidates, including those taxa thought to be extinct. Thus, *A. pycnostachyus* var. *lanosissimus* was excluded from this and subsequent notices of review. In

1997, *A. pycnostachyus* var. *lanosissimus* was rediscovered and a review of the taxon's status indicated that a proposed rule was warranted.

We published a proposed rule to list *Astragalus pycnostachyus* var. *lanosissimus* as endangered in the **Federal Register** on May 25, 1999 (64 FR 28136). We have updated this rule to reflect any changes in information concerning distribution, status, and threats since the publication of the proposed rule.

Summary of Comments and Recommendations

In the May 25, 1999, proposed rule (64 FR 28136), we requested interested parties to submit factual reports or information that might contribute to development of a final rule. We contacted appropriate Federal agencies, State agencies, county and city governments, scientific organizations, and other interested parties and requested information and comments. We published a newspaper notice inviting public comment in the Los Angeles Times on June 3, 1999.

During the comment period we received comments from 4 individuals, agencies, or group representatives concerning the proposed rule. Two commenters supported the proposal, one was neutral, and one was opposed to the proposal. Comments provided additional information that, along with other clarifications, has been incorporated into the ''Background'' or ''Summary of Factors'' sections of this final rule. Opposing comments and our responses are summarized as follows:

Comment 1: The proposed rule failed to meet any listing criteria as defined by the Act.

Response 1: We disagree. The arguments presented in the Summary of Factors Affecting the Species section of the rule have been supported by the peer review process as well as our internal legal and biological reviews for compliance with the Act.

Comment 2: The proposed rule utilized outdated and incomplete data, and failed to include information about the horticultural experiments conducted in central California.

Response 2: The data used in determining the status of *Astragalus pycnostachyus* var. *lanosissimus* was current and complete at the time the proposed rule was written. Experimental horticultural activities involving the removal of some plants and seeds from the natural population and their propagation in a greenhouse facility have been initiated, and we believe that such activities may prove to be useful in conserving the plant species. However, these initial experiments have shown limited success, and the ability to maintain populations necessary for the recovery of *A. pycnostachyus* var. *lanosissimus* has not been demonstrated.

Comment 3: There are no additional benefits for the species by listing it.

Response 3: Federal listing will provide additional protection for the species through Federal regulations and recovery efforts. Additional protection will potentially be provided through the consultation process for projects which may affect the species that are funded, permitted, or carried out by a Federal agency as required by section 7 of the Act. In addition, Federal listing of a species generally provides for recognition and additional funding, by our agency as well as others, for the conservation and recovery of the species. Although our recovery planning process typically occurs after the species has been federally listed, the State listing of this species has served to advance the process of identifying appropriate recovery actions. We currently do not know what population size and habitat areas are needed to support the continued existence of this species. However, specific recovery objectives and criteria to delist the species in the future, including targets for population/habitat sizes, will be developed during the formal recovery planning process. This process will involve species experts, scientists, and interested members of the public, in accordance with the interagency policy on recovery plans under the Act, published on July 1, 1994 (59 FR 34272).

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited the expert opinions of three peer reviewers regarding pertinent scientific or commercial data and assumptions relating to population status and biological and ecological information for *Astragalus pycnostachyus* var. *lanosissimus.* Only one reviewer responded. This reviewer provided supporting information for the listing of the species and described the information included in the rule as factually correct to the best of his knowledge.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Astragalus pycnostachyus* var. *lanosissimus* are as follows:

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

Astragalus pycnostachyus var. *lanosissimus* is believed to have been extirpated from all but one of the general areas from which it has been collected. In Los Angeles County, this taxon was collected in the late 1800s and early 1900s from Santa Monica, Ballona Marsh, and ''Cienega'' (probably near Ballona Marsh). These coastal areas are now urbanized within the expansive Los Angeles metropolitan area. About 90 percent of the Ballona wetlands, once encompassing almost 2000 acres, have been drained, dredged, and developed into the urban areas of Marina del Rey and Venice (Critchfield 1978; Friends of Ballona Wetlands 1998). Ballona Creek, the primary freshwater source for the wetland, had been straightened, dredged, and channelized by 1940 (Friesen, *et al.* 1981). Despite periodic surveys of what remains at the Ballona wetlands, *A. pycnostachyus* var. *lanosissimus* has not been collected there since the early 1900s (Gustafson 1981; herbarium labels from collections by H. P. Chandler and by E. Braunton, 1902, housed at U.C. Berkeley Herbaria). Barneby (1964) believed that *A. pycnostachyus* var. *lanosissimus* was extirpated from all areas south of Santa Monica by the mid-1960s. In 1987, botanists searched for *A. pycnostachyus* var. *lanosissimus* at previous collection locations throughout its range in coastal habitats, including Bolsa Chica in Orange County and on public lands around Oxnard in Ventura County, without success (F. Roberts, Service, in. litt. 1987; R. Burgess, CNPS, in. litt. 1987; T. Thomas, Service, pers. comm. 1997). Point Mugu Naval Air Weapons Station, in southern Ventura County, may have potential habitat. Detailed surveys have not been conducted there; however, *A. pycnostachyus* var. *lanosissimus* was not found during cursory surveys of the base, and this taxon has never been collected there.

The single known population of *Astragalus pycnostachyus* var. *lanosissimus* occurs near the city of Oxnard, in a degraded backdune community. From 1955 to 1981 the land on which it occurs was used as a disposal site for oil field wastes (Impact Sciences, Inc. 1998). In 1998, the City of Oxnard published a Final Environmental Impact Report (FEIR) for

development of this site (Impact Sciences, Inc. 1998). The proposal for the site includes remediation of soils contaminated with hydrocarbons, followed by construction of 364 homes and a 6-acre lake on a total of 91 acres, including the land on which *A. pycnostachyus* var. *lanosissimus* grows. The proposed soil remediation would involve excavation and stockpiling of the soils, followed by soil treatment and redistribution of the soils over the site (Impact Sciences, Inc. 1998), destroying the *A. pycnostachyus* var. *lanosissimus* population that was identified on the site late in the planning process. In order to mitigate for this loss, the project included provisions for seed collection and horticultural propagation, and transplantation of greenhouse seedlings and plants collected from the wild to off-site locations.

The proposed project, as described in the FEIR, would adversely affect the only known population of *A. pycnostachyus* var. *lanosissimus*, resulting in the likely extinction of this taxon in the wild. On July 27, 1999, the California Department of Fish and Game (CDFG) signed a Memorandum of Understanding (MOU) with the project proponent to establish a permanent rare plant preserve on site and provide for experimental off-site mitigation (see Appendix E, CDFG 2000). The intent of the MOU was to increase protections to the milk-vetch beyond that in the original project description. However, implementing the MOU would still result in intensive habitat disturbance during soil remediation, up to the edge of the extant stand of *A. pycnostachyus* var. *lanosissimus*. Under the MOU, when the project is complete there will be a 5-acre preserve surrounded by urban land use.

The small size of the preserve and its proximity to future urban and suburban uses makes it subject to the effects of nonnative, invasive plant and animal species, increased water supply due to suburban irrigation runoff, and chemicals such as herbicides, pesticides, and fertilizers (see Conservation Biology Institute 2000, CDFG 2000 and references therein). Independently or in combinations, these factors present difficult management challenges which, if not adequately addressed, could lead to the elimination of *A. pycnostachyus* var. *lanosissimus* from the site. Nonnative plant and animal species are competitors and predators, respectively, that can directly reduce survival of native plants, and they can also upset the invertebrate (pollinator) and vascular plant associations upon which native plants depend (Conservation Biology Institute 2000). The limited information available about possible specific effects of competition and predation on the Ventura marsh milk-vetch is described in CDFG (2000). While the life-history requirements of the Ventura marsh milk-vetch are not well understood, any factor that substantially alters the hydrology of the site, such as increases or decreases in urban/suburban runoff, is likely to make the site unsuitable for this wetland species (see the discussion of hydrology and small preserves in Conservation Biology Institute (2000)). Likewise, increased levels of chemicals arriving via runoff or drift can be expected in small preserves and can harm native species. Specific predictions about the effects of chemicals such as herbicides and pesticides on the proposed milk-vetch preserve would be speculative at this point, but given the proximity of the preserve to future suburban and urban uses, increases in pesticides or herbicides can be expected. These increases could harm the milk-vetch directly, or alter the pollinator or plant associations upon which it depends.

Fuel management is also a concern for small preserves in urban or suburban areas; the fire hazard at the wildland-urban interface is receiving national and local attention (Federal Fire Policy 2001, Ventura County 2001). In this part of California much of the native and some of the nonnative vegetation is flammable. Currently the local fire department requires 100 feet of vegetation modification for fire safety (Ventura County 2001). If the proposed development design required that 100 feet of fuel modification was necessary in the preserve, it would reduce the size of the core preserve to 1.9 acres. Finally, attempts to grow this species elsewhere in the wild have failed, or require constant intervention (Mary Meyer, March 2000 *In litt.*; Wayne Ferren, August 2000 *In litt.*). Thus, the preserve, as designed, does not adequately address the biological needs of the species, relies on unproven management measures, and will not insure protection of the site.

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

Overutilization is not known to be a problem for *Astragalus pycnostachyus* var. *lanosissimus* at present. Soon after this taxon was discovered, the project proponent installed a fence around the population, which appears to have been effective in minimizing unauthorized visitation.

C. Disease or Predation

A sooty fungus was found on the leaves of *Astragalus pycnostachyus* var. *lanosissimus* in late summer, 1997, as leaves began to senesce and the plants entered a period of dormancy (Impact Sciences, Inc. 1997; T. Yamashita, Sunburst Plant Disease Clinic, pers. comm. 1998). The effects of the fungus on the population are not known, but it is possible that the fungus attacks senescing leaves in great number only at the end of the growing season. The plants appeared robust when in flower in June 1997, matured seed by October 1997, and were regrowing in March 1998, after a period of dormancy, without obvious signs of the fungus (D. Steeck, Service, pers. obs. 1997, 1998, 1999).

The seeds of *Astragalus pycnostachyus* var. *lanosissimus* in 1997 were heavily infested with seed beetles (Bruchidae: Coleoptera). In a seed collection made for conservation purposes, the Service found that while most fruits in 1997 partially developed at least 4 seeds, seed predation reduced the average number of undamaged seeds to only 1.8 per fruit (D. Steeck, Service, and M. Meyer, CDFG, unpublished data). Apparently heavy seed predation by seed beetles and weevils has been reported among other members of the genus *Astragalus* (Platt *et al.* 1974; Lesica 1995). The effects of seed predation on the population and its variability from year to year are not known at this time.

The introduced nonnative milk snail (*Otala lactea*) was observed causing damage to the foliage of *Astragalus pycnostachyus* var. *lanosissimus* in 1998 and 1999 concurrent with a dramatic decline in seedling plants (D. Steeck, Service pers. comm. 1999).

Severely pruned plants were observed in 1999, which was attributed to small mammal herbivory (D. Steeck field notes 1999).

D. The Inadequacy of Existing Regulatory Mechanisms

The California Fish and Game Commission listed *Astragalus pycnostachyus* var. *lanosissimus* as endangered under the Native Plant Protection Act (NPPA) (chapter 1.5 sec. 1900 *et seq.* of the California Fish and Game Code) and the California Endangered Species Act (CESA) (chapter 1.5 sec. 2050 *et seq.*) on April 6, 2000. California Senate Bill 879, passed in 1997 and effective January 1, 1998, requires individuals to obtain a section 2081(b) permit from CDFG to take a listed species incidental to otherwise lawful activities, and requires

that all impacts be fully mitigated and all measures be capable of successful implementation. However, past attempts to mitigate impacts to rare plant populations have often failed (Howald 1993), and it is unclear how well these requirements will provide for the long-term conservation of State-listed plants.

The California Environmental Quality Act (CEQA) requires a full public disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Species that can be shown to meet the criteria for State listing, such as *Astragalus pycnostachyus* var. *lanosissimus*, are considered under CEQA (CEQA Section 15380). Once significant effects are identified, the lead agency must require mitigation for effects through changes in the project unless the agency decides that overriding social or economic considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of endangered species. Protection of listed species through CEQA, therefore, is ultimately left to the discretion of the agency involved.

The Coastal Zone Management Act of 1972 is a Federal statute that allowed for the establishment of the California Coastal Act (CCA) of 1976. CCA established a coastal zone. In Ventura County, the site of the only known extant population of *Astragalus pycnostachyus* var. *lanosissimus* occurs in the California Coastal Zone (Impact Sciences, Inc. 1998). As required by CCA, Ventura County has developed a Coastal Land Use Plan. It currently designates the area occupied by *A. pycnostachyus* var. *lanosissimus* as Open Space, and amendments of the Coastal Land Use Plan will be required for approval of a residential development on this property. Land use decisions made by local agencies in the Coastal Zone are appealable to the California Coastal Commission. Although the Coastal Zone designation and CEQA require that unique biological resources, such as *A. pycnostachyus* var. *lanosissimus*, be considered in the planning process, any protection offered by these regulatory mechanisms is ultimately at the discretion of the local and State agencies involved and, therefore, does not assure protection for, or preclude the need to list, this taxon.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Astragalus pycnostachyus var. *lanosissimus* is threatened with extinction from unanticipated human activities and natural events by virtue of the very limited number of individuals in, and the small area occupied by, the only known extant population. A wildfire in the summer before seeds have matured, a plane crash (the taxon is under the extended center flight line of the Oxnard airport and a crash occurred on the site in 1995 (Murphy *in litt.* 1997), and other natural or unanticipated human-caused events could eliminate the existing population and result in the extinction of this taxon from the wild.

The single known population of this taxon is also threatened by competition with nonnative plant species. *Cortaderia selloana* (pampas grass), *Carpobrotus* sp., and *Bromus* madritensis ssp. rubens are invasive nonnative plant species that occur at the site (Impact Sciences, Inc. 1997). *Carpobrotus* sp. in particular, are competitive, succulent species with the potential to cover vast areas in dense clonal mats. *Bromus madritensis* ssp. *rubens* grew in high densities around some mature individuals of *Astragalus pycnostachyus* var. *lanosissimus* in 1998, and seedlings were germinating among patches of *Carpobrotus* and *Bromus* in 1998 (D. Steeck, pers. obs. 1998). Seedling survival rates in these areas have not yet been determined. As explained under factor A, managing nonnative plants and animals and other threats to native species is difficult in small preserves (Conservation Biology Institute 2000, CDFG 2000). *Carpobrotus* and *Bromus* can compete directly with the milk-vetch and may also alter the microenvironment so seriously that they alter the invertebrate (pollinator) and vascular plant associations upon which the milk-vetch depends (see discussion of nonnative predators and competitors on the site in CDFG (2000)). In addition, the life history and biology of *Astragalus pycnostachyus* var. *lanosissimus* is not well known, owing to its only recent rediscovery. It will be many years before we understand what factors influence seedling germination and the production of viable seeds in the wild.

Astragalus pycnostachyus var. *lanosissimus* is also threatened by activities in occupied habitat associated with planning for land use at the site. For example, the project proponents have conducted at least two excavations in the population to examine the soils in which the plants occur (D. Steeck, pers. obs. 1997) and to examine the root structure of an adult plant (R. Smith, R.A. Smith and Associates, pers. comm. 1998). In April 1998 the project proponents dug up and transported three plants out of Ventura County to a greenhouse in central California in a preliminary attempt at transplanting them. In addition to the direct removal of reproducing individuals from the population, exploratory excavations within the population can potentially alter the hydrology of the micro-site where the plants are found, reduce seedling establishment by burying or removing seeds and seedlings from the soil, and injure plant roots.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this taxon in determining this final rule. Residential and commercial development have resulted in the loss and alteration of this taxon's coastal habitat and are the most likely cause of population extirpation historically. Loss and alteration of habitat from soil remediation activities and proposed residential development threaten the only known extant population. Other threats include competition from nonnative plant species and unanticipated human activities and natural events which could diminish or destroy the very small extant population. Existing regulatory mechanisms are inadequate to protect this taxon. Because *Astragalus pycnostachyus* var. *lanosissimus* is in danger of extinction throughout all or a significant portion of its range, it fits the Act's definition of endangered.

Critical Habitat

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

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

In the proposed rule, we indicated that designation of critical habitat for *Astragalus pycnostachyus* var. *lanosissimus* was not prudent because we believed that designation of critical habitat would not provide any additional benefit beyond that provided through listing as endangered. We came to that conclusion because the plant occurs only on private land with no known Federal nexus, because the designation of critical habitat would not invoke the protection afforded under section 9, and because, in this case, with no permit requirement, section 10 is not applicable. In addition, the private landowner and all appropriate non-Federal agencies were aware of the Federal status of this species and its location on private land.

After further consideration, and in light of recent court rulings regarding critical habitat designations, we believe that *Astragalus pycnostachyus* var. *lanosissimus* may benefit from critical habitat designation. For example, critical habitat designation may educate and inform the public and help focus conservation efforts through future Federal, State, and local planning efforts and the public, by identifying the habitat needs and crucial areas for *Astragalus pycnostachyus* var. *lanosissimus.* Therefore, we now believe that critical habitat designation may be prudent for *Astragalus pycnostachyus* var. *lanosissimus.*

Critical habitat is not determinable (50 CFR 424.12(a)(2)) when one or both of the following situations exist—(1) Information sufficient to perform required analyses of the impacts of the designation is lacking, or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Almost nothing is known of the habitat requirements of *Astragalus pycnostachyus* var. *lanosissimus.* All but two of the known collections of this taxon were made prior to 1930. Specimen labels from these collections and original published descriptions contain virtually no habitat information. The newly discovered population of *A. pycnostachyus* var. *lanosissimus* occurs at a site previously used for disposal of petroleum waste products (Impact Sciences, Inc. 1997), on soils that were likely transported from other locations as a cap for the disposal site once it was closed. The original source of these soils is not known. As a result of this lack of information about the habitat needs of the species, we believe that the biological needs of the species are not sufficiently well known to permit designation of an area as critical habitat, and find that critical habitat for *A. pycnostachyus* var. *lanosissimus* is not determinable at this time.

Our regulations (50 CFR 424.17(b)(2)) require that, when we make a ''not determinable'' finding, we designate critical habitat within two years of the publication date of the original proposed listing rule, unless the designation is found to be not prudent. However, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Listing the Ventura marsh milk-vetch without designation of critical habitat will allow us to concentrate our limited resources on higher-priority critical habitat and other listing actions, while allowing us to invoke protections needed for the conservation of this species without further delay. We will make a determination regarding critical habitat in the future at such time when our available resources and priorities allow.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The single known extant population of *Astragalus pycnostachyus* var. *lanosissimus* occurs on privately owned land. While currently there are no direct Federal authorizations needed for remediation of the contaminated soils of the site, Federal involvement could potentially arise from this situation in the future.

The listing of *Astragalus pycnostachyus* var. *lanosissimus* as endangered will provide for the development of a recovery plan for this taxon. Such a plan will bring together Federal, State, and local efforts for the conservation of this taxon. The plan will establish a framework for agencies to coordinate activities and to cooperate with each other in conservation efforts. The plan will set recovery priorities and describe site-specific management actions necessary to achieve the conservation of this taxon.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to *Astragalus pycnostachyus* var. *lanosissimus,* all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.1 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such endangered plants in knowing violation

of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant taxa under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (503/231–2063, facsimile 503/231–6243).

It is the policy of the Service, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not be likely to constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within the taxon's range. *Astragalus pycnostachyus* var. *lanosissimus* is not located on areas currently under Federal jurisdiction. Collection, damage, or destruction of this species on Federal lands is prohibited (although in appropriate cases a Federal endangered species permit may be issued to allow collection for scientific or recovery purposes). Such activities on areas not under Federal jurisdiction constitutes a violation of section 9 if conducted in knowing violation of State law or regulations, or in violation of State criminal trespass law. Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Ventura Fish and Wildlife Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new information collection requirements for which the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is required. Any information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. For additional information concerning permits and associated requirements for threatened species, see 50 CFR 17.32.

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary authors of this notice are Diane Steeck and Tim Thomas, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service hereby amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

2. Section 17.12(h) is amended by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Astragalus pycnostachyus var. *lanosissimus*.	Ventura marsh milk-vetch.	U.S.A. (CA)	Fabaceae—Pea	E	708	NA	NA
*	*	*	*	*	*	*	

Dated: May 14, 2001.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 01–12663 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 001108316–1083–02; I.D. 060600B]

RIN 0648–AK50

Fisheries of the Exclusive Economic Zone Off Alaska; Improved Individual Fishing Quota Program

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to amend regulations implementing the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear fisheries in and off Alaska. NMFS has identified parts of the program that need further refinement or correction for effective management of the affected fixed gear fisheries. This action is intended to effect those refinements and is necessary to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) with respect to the IFQ fisheries.

DATES: Effective June 20, 2001, except for the gear type data element of §§ 679.5(l)(2)(vi) and 679.42 (j)(6), which are not effective until the Office of Management and Budget (OMB) approves the information collection requirements contained in those sections. NMFS will announce the effective date for those sections by publication in the **Federal Register**.

Comments on the information collections must be received by June 20, 2001.

ADDRESSES: Copies of the Regulatory Impact Review/Supplementary Final Regulatory Flexibility Analysis may be obtained from Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, (Attn: Lori J. Gravel). Send comments on the information collections to NMFS and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Regulations codified at 50 CFR part 679 implement the IFQ Program, a limited access system for management of the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in and off Alaska, under the authority of the Halibut Act with respect to halibut and the Magnuson-Stevens Act with respect to sablefish. Further information on the rationale for and implementation of the IFQ Program is codified in the final rule published in the **Federal Register**, November 9, 1993 (58 FR 59375).

NMFS' continuing assessment of the IFQ Program's responsiveness to conservation and management goals for Pacific halibut and sablefish fisheries has produced two ''omnibus'' packages of IFQ regulatory reforms since the inception of the program (60 FR 22307, May 5, 1995; 61 FR 41523, August 9, 1996). This final rule, the third such ''omnibus'' package of regulatory changes to the IFQ Program, amends various portions of the program's implementing regulations. These changes are necessary to promote the ability of fishermen to conduct IFQ fishing operations more efficiently, to enhance NMFS' ability to administer the program, and to improve the clarity and consistency of IFQ Program regulations.

This final rule makes the following changes to the IFQ regulations: (1) In § 679.1 *Purpose and scope*, adds an explicit reference to the Halibut Act, under which regulations in this part regarding the Pacific halibut fishery were developed, and in § 679.1(d) revise ''IFQ management plan'' to read ''IFQ management measures'' to prevent any inference that the IFQ Program is itself a ''fishery management plan'' as that term is used in the Magnuson-Stevens Act; (2) amends the requirements for IFQ fishermen participating in open-access sablefish fisheries in Alaska State waters; (3) adds nomenclature to reflect organizational changes in NMFS' Restricted Access Management (RAM) program; (4) amends the definition of an IFQ landing to include vessels that are removed from the water and put on trailers; (5) removes the reference to an ''accompanying statement'' establishing IFQ balances; (6) adds an exemption for lingcod fishermen using dinglebar gear from the IFQ 6-hour prior notice of landing and 12-hour landing window requirements; (7) adds gear type to the information required on a completed IFQ landing report; (8) amends the information required for a shipment report to clarify which registered buyer, in landings involving multiple registered buyers, is responsible for compliance with shipment report requirements; (9) makes minor corrections to errors arising from the consolidation of regulations; (10) amends the survivorship transfer provisions to allow the temporary transfer of a deceased QS holder's QS and IFQ to a designated beneficiary and revise a paragraph on an IFQ leasing provision that expired in 1998; (11) amends the limitations on the use of QS and IFQ to require annual updates on the status of corporations, partnerships, and other collective entities holding QS; (12) amends the submission of appeals to allow appeals to initial administrative decisions to be submitted by facsimile machine; and (13) amends reporting requirements for consistency with the Paperwork Reduction Act (PRA).

A detailed discussion of each of these changes may be found in the preamble to the proposed rule published December 14, 2000, at 65 FR 78126.

NMFS invited public comment on the changes contained in this action through January 16, 2001. No comments were received, and NMFS publishes this rule unchanged from the proposed rule.

This rule revises regulations pertaining to certain IFQ forms and reports to clarify further the data required of the public in these collections of information. Two of the collections of information contained in this final rule have not yet been authorized by OMB pursuant to the PRA. The pertinent collections of information are the addition of ''gear type'' to information required in a completed IFQ Landing Report at § 679.5 (l)(2) and the addition of a requirement that a corporation, partnership, and other collective entity holding QS submit annual updates on the status of the collective entity as such at § 679.42 (j)(5).

Classification

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid OMB control number.

This final rule contains collection-of-information requirements subject to the PRA and which have been approved by OMB under OMB control number 0648–0272. These requirements and their

associated burden estimates per response are: Landing Report (12 minutes); request for QS Application (30 minutes for an individual, 1 hour for an existing corporation, 2 hours for a dissolved corporation, and 2 hours for a vessel); IFQ Vessel Clearance Report (12 minutes); IFQ Shipment Report (18 minutes): IFQ Transshipment Authorization Request (12 minutes); QS Designated Beneficiary Form (1 hour); QS/IFQ Transfer Application (2 hours); and Letter of Appeal (4 hours).

This rule also contains new collection-of-information requirements, which have been or will be submitted to OMB for approval, and which are not effective at this time (see the **DATES** section). These two requirements are the addition of a gear type data element to the landing report (not expected to alter the estimated 12 minutes response time for the report) and a new requirement for annual updates of identification of current shareholders or partners (30 minutes).

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 a practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collections 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 collections of information on respondents, including through use of automated collection techniques or other forms of information technology. Send comments on these or other aspects of the information collections 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).

Other collections of information in this rule have been approved by the OMB under OMB control number 0648–0272. These new information requirements comprise the following additions and revisions to the IFQ recordkeeping and reporting requirements: Request for QS Application; IFQ Vessel Clearance Report; IFQ Shipment Report; IFQ Transshipment Authorization Request; QS Designated Beneficiary Form; QS/IFQ Transfer Application; and the Letter of Appeal.

NMFS prepared a final regulatory flexibility analysis to describe this final rule's potential economic effects on small entities. The reporting burden of this action is identified in this final rule. Seven changes were made to clarify the regulations and improve regulatory language to avoid potential confusion for the affected small entities. Allowing QS holders to designate a beneficiary to receive temporary transfer privileges provides a benefit to the families of QS holders with a minimal burden of filling out an application form. Allowing administrative appeals to be submitted by facsimile machine will reduce the burden of submitting an appeal on the affected families. Requiring an annual update on the status of corporations, partnerships, or other non-individual entities is necessary to ensure that QS are not erroneously issued because of changes in these non-individual entities, which requires an increase in the burden to such entities because of annual submissions. Requiring the addition of gear type to landing reports is necessary for the management of the IFQ program, which is limited to certain gear types, makes a negligible increase to the burden of QS holders. Extending the exemption to the 6-hour prior notice of landing report and the 12–hour landing requirements to lingcod dinglebar gear troll fishermen will make it easier for them to land small incidental catches of halibut. Prohibiting the removal from the water of a vessel containing IFQ harvests enhance NMFS' monitoring IFQ landings to ensure accurate accounting of harvests against QS balances will cause inconvenience to some IFQ fishermen by requiring a 6-hour delay before offloading their harvest at the dock. The amendments to this final rule are expected to have minimal impact on the 1,677 unique persons holding halibut QS and the 897 unique persons holding sablefish QS, all of whom are assumed to be small entities.

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

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: May 15, 2001.

Clarence Pautzke,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773, *et seq.*, 16 U.S.C. 1801 *et seq.*

2. In part 679, all references to ''Chief, RAM Division'' are removed and ''Program Administrator, RAM'' is added in its place.

3. In § 679.1, the first sentence of the introductory paragraph, paragraph (d), and paragraph (d)(1)(i)(B) are revised to read as follows:

§ 679.1 Purpose and scope.

Regulations in this part were developed by the Council under the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. * * *

* * * * *

(d) *IFQ Program for sablefish and halibut.* The IFQ management measures for the commercial fisheries that use fixed gear to harvest sablefish and halibut (see subparts A, B, D, and E of this part).

(1) * * *

(i) * * *

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that aboard such vessels are persons who currently hold quota shares, IFQ permits, or IFQ cards.

* * * * *

4. In § 679.2, the definition of ''Chief, RAM Division'' is removed, the definition of ''IFQ landing'' is revised, the definition of ''Program Administrator, RAM'' is added, and, under the definition of ''Authorized fishing gear,'' paragraphs (A)(1) through (15) are redesignated as paragraphs (2) through (16), newly designated paragraph (16) is revised, and a new paragraph (1) is added to read as follows:

§ 679.2 Definitions.

* * * * *

Authorized fishing gear * * *

* * * * *

(1) *Dinglebar gear* means one or more lines retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

* * * * *

(16) *Troll gear* means one or more lines with hooks or lures attached drawn through the water behind a moving vessel. This gear type includes hand troll and power troll gear and dinglebar gear.

* * * * *

IFQ landing means the unloading or transferring of any IFQ halibut, IFQ sablefish, or products thereof from the vessel that harvested such fish or the removal from the water of a vessel

containing IFQ halibut, IFQ sablefish, or products thereof.

* * * * *

Program Administrator, RAM means the Program Administrator of Restricted Access Management Program, Alaska Region, NMFS.

* * * * *

5. In § 679.4, paragraph (d)(1)(i) is revised to read as follows:

§ 679.4 Permits.

* * * * *

(d) *IFQ*—(1) * * *

(i) *IFQ permit.* A copy of an IFQ permit that specifies the IFQ regulatory area and vessel category in which IFQ halibut or IFQ sablefish may be harvested by the IFQ permit holder; and

* * * * *

6. In § 679.5(l), paragraphs (l)(1)(iv), (l)(2)(iv)(A)(*2*), (l)(2)(vi), (l)(3)(i)(A), (l)(3)(ii), (l)(4), and (l)(5)(i) are revised to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(l) * * *

(1) * * *

(iv) *Exemption.* The operator of a category B, C, or D vessel, as defined at § 679.40 (a)(5), making an IFQ landing of IFQ halibut of 500 lb (0.227 mt) or less of weight determined pursuant to § 679.42(c)(2) is exempt from the prior notice of landing required by this section when such landings of IFQ halibut are made concurrent with legal landings of lingcod harvested with dinglebar gear or with legal landings of salmon.

* * * * *

(2) * * *

(iv) * * *

(A) * * *

(*2*) IFQ halibut of 500 lb (0.227 mt) or less of IFQ weight determined pursuant to § 679.42 (c)(2) is landed concurrently with a legal landing of lingcod harvested with dinglebar gear or a legal landing of salmon by a category B, C, or D vessel, as defined at § 679.40 (a)(5).

* * * * *

(vi) *Information required.* The registered buyer must enter accurate information contained in a complete IFQ landing report as follows: Date, time, and location of the IFQ landing; name and permit number of the IFQ card holder and registered buyer; the harvesting vessel's ADF&G number; gear type reported by cardholder; the Alaska State fish ticket number(s) for the landing; the ADF&G statistical area of harvest reported by the IFQ cardholder; if ADF&G statistical area is bisected by a line dividing two IFQ regulatory areas, the IFQ regulatory area of harvest reported by the IFQ cardholder; for each ADF&G statistical area of harvest reported by the IFQ cardholder, the product code landed and initial accurate scale weight made at the time offloading commences for IFQ species sold and retained.

(3) * * *

(i) * * *

(A) Complete a written shipment report for each shipment or transfer of IFQ halibut and IFQ sablefish for which the Registered Buyer submitted a landing report before the fish leave the landing site.

* * * * *

(ii) *Information required.* A shipment report must specify the following: Whether the report is a revised report; species and product type being shipped; number of shipping units and unit weight; fish product weight; names of the shipper and receiver; names and addresses of the consignee and consignor; mode of transportation; intended route; and signature of the responsible registered buyer's representative.

* * * * *

(4) *Transshipment authorization.* No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization by a clearing officer. Authorization from a clearing officer must be obtained for each instance of transshipment at least 24 hours before the transshipment is intended to commence. Requests for authorization must specify the date and location of the transshipment; names and ADF&G numbers of vessels delivering and receiving the transshipment; product destination; registered buyers' names and permit numbers; IFQ permit numbers; species, regulatory areas, product types and codes, number of units, and unit weight of IFQ harvests being transshipped; time and date of the request; and name and contact numbers for the person making the request.

(5) * * *

(i) *Applicability.* The vessel operator who makes an IFQ landing at any location other than in an IFQ regulatory area or in the State of Alaska must obtain prelanding written clearance of the vessel from a clearing officer and provide the following information: Date, time, and location of clearance; vessel name and ADF&G and IPHC numbers; homeport; Federal Fisheries Permit number; IFQ permit numbers; registered buyer permit number; IFQ cardholder name; date, time, and location of landing; areas fished and estimated weight of harvests by species; and registered buyer's signature.

* * * * *

7. In § 679.7, paragraph (f)(14) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) *IFQ fisheries.* * * *

(14) Violate any other provision under this part.

* * * * *

8. In § 679.40, paragraph (a)(6)(i) is revised to read as follows:

§ 679.40 Sablefish and halibut QS.

* * * * *

(a) * * *

(6) * * *

(i) *Application form.* The Application period for QS ended on July 15, 1994. As of that date, the Request for QS Application form replaced the QS Application form as the means by which the Administrator, RAM, reviews and makes initial administrative determinations on requests for initial allocations of QS. A Request for QS Application must contain the following: information identifying the individual, representative of a deceased fisherman's estate, corporation or partnership, or dissolved corporation or partnership making the request; contact numbers; vessel identification, length overall, and purchase date; and information on any vessel leasing arrangement pertinent to the claim of eligibility.

* * * * *

9. In § 679.41, paragraphs (h)(2) and (k) are revised to read as follows:

§ 679.41 Transfer of QS and IFQ.

* * * * *

(h) *Transfer of IFQ.* * * *

(2) IFQ resulting from category B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (k) of this section.

* * * * *

(k) *Survivorship transfer privileges*—(1) On the death of an individual who holds QS or IFQ, the surviving spouse or, in the absence of a surviving spouse, a beneficiary designated pursuant to paragraph (k)(2) of this section, receives all QS and IFQ held by the decedent by right of survivorship, unless a contrary intent was expressed by the decedent in a will. The Regional Administrator will approve an Application for Transfer to the surviving spouse or designated beneficiary when sufficient evidence has been provided to verify the death of the individual.

(2) QS holders may provide the Regional Administrator with the name

of a designated beneficiary from the QS holder's immediate family to receive survivorship transfer privileges in the event of the QS holder's death and in the absence of a surviving spouse.

(3) The Regional Administrator will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse or, in the absence of a surviving spouse, from a beneficiary from the QS holder's immediate family designated pursuant to paragraph (k)(2) of this section to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (h)(2) of this section.

10. In § 679.42, paragraph (j)(6) is added to read as follows:

§ 679.42 Limitations on the use of QS and IFQ.

* * * * *

(j) * * *

(6) A corporation, partnership, or other entity, except for a publicly held corporation, that receives an initial allocation of QS assigned to categories B, C, or D must provide annual updates to the Regional Administrator identifying all current shareholders or partners and affirming the entity's continuing existence as a corporation or partnership.

* * * * *

11. In § 679.43, paragraph (c) is revised to read as follows:

§ 679.43 Determinations and appeals.

* * * * *

(c) *Submission of appeals.* Appeals must be in writing and must be submitted to the Office of Administrative Appeals, P. O. Box 21668, Juneau, AK 99802 or delivered to Federal Building, 709 West 9th St., Room 801, Juneau, AK. Appeals may be transmitted by facsimile to (907) 586–9361. Additional information about appeals may be obtained by calling (907) 586–7258, and by accessing Office of Administrative Appeals section of the NMFS Alaska Region website *http://www.fakr.noaa.gov*.

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[FR Doc. 01–12745 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 98
Monday, May 21, 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 AGRICULTURE

Rural Utilities Service

7 CFR Parts 1773

RIN 0572–AB66

Policy on Audits of RUS Borrowers; Management Letter

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) is proposing to amend its regulations by revising certain requirements regarding the management letter to be provided to RUS by certified public accountants (CPAs) as part of audits of RUS borrowers.

In the final rule section of this **Federal Register**, RUS is publishing this action as a direct final rule without prior proposal because RUS views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If RUS receives adverse comments, a timely document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action. Any parties interested in commenting on this proposed action should do so at this time.

DATES: Comments on this proposed action must be received on or before June 20, 2001.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Staff, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between the 8 a.m. and 4 p.m. (7 CFR part 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1523, Washington, DC 20250–1523. Telephone: 202–720–5227.

SUPPLEMENTARY INFORMATION: See the Supplementary Information provided in the direct final rule located in the final rule section of this **Federal Register** for the applicable supplementary information on this action.

Dated: May 8, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–12130 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1773

RIN 0572–AB62

Policy on Audits of RUS Borrowers; Generally Accepted Government Auditing Standards (GAGAS)

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) is proposing to amend its regulations to include in its audit requirements for electric and telecommunications borrowers recent amendments to the Generally Accepted Government Auditing Standards (GAGAS) issued by the Government Accounting Office (GAO) and to make other minor changes and corrections.

In the final rule section of this **Federal Register**, RUS is publishing this action as a direct final rule without prior proposal because RUS views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If RUS receives adverse comments, a timely document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action. Any parties interested in commenting on this proposed action should do so at this time.

DATES: Comments on this proposed action must be received on or before June 20, 2001.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Staff, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS requests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between the 8 a.m. and 4 p.m. (7 CFR part 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1523, Washington, DC 20250–1523. Telephone: 202–720–5227.

SUPPLEMENTARY INFORMATION: See the Supplementary Information provided in the direct final rule located in the final rule section of this **Federal Register** for the applicable supplementary information on this action.

Dated: May 8, 2001.

Blaine D. Stockton,

Acting Administrator, Rural Utilities Service.

[FR Doc. 01–12128 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

[Docket No. R–1105]

Study of Banking Regulations Regarding the Online Delivery of Financial Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Study of regulations; request for comment.

SUMMARY: Pursuant to section 729 of the Gramm-Leach-Bliley Act (the GLB Act or Act), the Board is conducting a study and preparing a report about its banking regulations with respect to the online delivery of financial services. To assist this review of its regulations, the Board requests comment on whether any of its regulations should be amended or removed in order to facilitate online banking.

DATES: Comments must be received by August 20, 2001.

ADDRESSES: Comments should refer to Docket No. R–1105 and may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to *regs.comments@federalreserve.gov.* Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9 a.m. and 5 p.m., pursuant to § 261.12, except as provided in § 216.14, of the Board's Rules Regarding the Availability of Information, 12 CFR 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT: Stephanie Martin, Assistant General Counsel, Legal Division, (202) 452–3198; Thomas E. Scanlon, Senior Attorney, Legal Division, (202) 452–3594; Heidi Richards, Assistant Director, Division of Banking Supervision and Regulation, (202) 452–3598; Jane Ahrens, Senior Counsel, Division of Consumer and Community Affairs, (202) 452–2412; Minh-Duc Le, Attorney, Division of Consumer and Community Affairs, (202) 452–3667; Jeff Stehm, Assistant Director, Division of Reserve Bank Operations and Payment Systems, (202) 452–2217.

SUPPLEMENTARY INFORMATION:

Background

Section 729 of the GLB Act requires the Board, the Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (the Agencies), to conduct a study of banking regulations regarding the online delivery of financial services.[1] Section 729 further requires the Agencies to report their recommendations on adapting existing legislative or regulatory requirements to online banking and lending.

In accordance with section 729, the Board is reviewing its regulations that relate to the delivery of financial services to assess their suitability for transactions that are conducted through the Internet. The Board plans to consult with the other Federal banking agencies about the appropriate aims and scope of its review and will coordinate its report with those that will be produced by the other Federal banking agencies.[2] The purpose of this document is to invite public comment on a wide range of issues that bear on delivering financial products and services over the Internet to assess whether any Board regulations should be amended in order to facilitate online banking. In addition, the Board requests comment on how particular statutory provisions affect the online delivery of financial products or services.

The Board recently requested comment on five interim final rules to establish uniform standards for the electronic delivery of notices to consumers, namely: Regulations B (Equal Credit Opportunity), E (Electronic Fund Transfers), M (Consumer Leasing), Z (Truth in Lending), and DD (Truth in Savings).[3] In connection with comments sought on those interim final rules, the Board also requested comment on whether other legislative or regulatory changes are needed to adapt current requirements to online banking and lending. In particular, the Board has requested comment on revising its regulations to facilitate electronic delivery of financial products and services to individual consumers, such as the provisions regarding periodic statements under Regulations E, Z, and DD. (Comments on those interim final rules must be received by June 1, 2001.) Any comments submitted in connection with the review of those regulations to facilitate electronic delivery of financial products and services for individual consumers shall also be considered for the study and report under section 729 of the GLB Act.

[1] Pub. L. 106–102, 113 Stat. 1476 (1999).

[2] The OCC issued an advance notice of proposed rulemaking and requested comment on a wide range of electronic banking issues to determine whether the OCC's regulations should be changed to facilitate national banks' use of new technologies. 65 FR 4895 (February 2, 2000). The Board notes that the OCC specifically requested comment in connection with its study of its regulations under section 729, and the Board will review those comments in connection with the Board's own study.

[3] 66 FR 17779 (April 4, 2001); 66 FR 17786 (April 4, 2001); 66 FR 17322 (March 30, 2001); 66 FR 17329 (March 30, 2001); 66 FR 17795 (April 4, 2001).

Issues for Comment

The Board recognizes that using electronic technology to deliver financial products and services poses distinct challenges to financial institutions and their customers. Much of the legislative and regulatory framework that governs banking was developed based on social, cultural, and technological practices that existed before the advent of widespread computer-based communications. The prospect of conducting banking transactions over the Internet has forced reconsideration of the existing legislative and regulatory framework that governs banking businesses.

The Board invites comment on how particular statutes, regulations, or supervisory policies specifically affect financial institutions and their customers' uses of new technologies. The following discussion identifies topics that the Board believes are appropriate for the design of the study and report required under section 729. Commenters are invited to respond to the questions presented and to offer comments or suggestions on any other issues related to financial products or services delivered online that are not described herein.

Laws and Regulations That Affect Transactions

Do any of the Board's regulations, such as those governing payment transactions, negatively affect the ability of financial institutions to offer certain online financial services? Which regulations, if any, negatively affect the likelihood that an individual or business customer would choose to obtain financial products or services through the Internet?

The ways in which financial institutions themselves obtain services from other financial institutions, including Federal Reserve Banks, significantly affects the products and services that financial institutions may, in turn, provide to their non-bank customers. The Board also requests comment on the specific ways in which laws, regulations, and other supervisory policies affect the online delivery of financial products and services between financial institutions.

Geography and Time Considerations

Some aspects of the Board's banking regulations, as well as other banking laws, are predicated on conceptions of geography. For example, bank mergers and acquisitions are regulated, in part, by legal standards that have been developed to determine whether a transaction poses anti-competitive

consequences in the relevant geographic market for the cluster of banking products.[4] Similarly, the legal standards that apply to the location of bank branches depend on certain conceptions of geography.[5] How should these kinds of regulatory provisions be revised (if at all) to more appropriately govern the location of online banking and lending activities?

Other laws or regulations contain concepts of time that may not be relevant in an online environment. For example, the term ''banking day'' in Regulation CC is defined as that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions.[6] Regulation CC requires funds that must be available for withdrawal on a business day to be available at the start of business, which may be as late as 9 a.m. local time of the depositary bank.[7] Are these provisions appropriate in the context of a customer that opened an account and performs all banking functions online?

The Board recognizes that these traditional boundaries of geography and time may need to be reexamined in light of online banking practices that enable customers to obtain financial products and services relatively free from customary time or place constraints. Comments are invited on how particular laws and regulations may be modified to accommodate the online delivery of financial products and services under these varying conditions.

Banking and Supervisory Regulations and Policies

The Board invites comment on how particular regulations or supervisory policies specifically affect financial institutions and their customers' uses of new technologies. For example, are there any specific Board regulations that unreasonably interfere with the use of online technologies? Are there any supervisory policies that impose unreasonable burdens on a financial institution's design or adaptation of online technologies? Are there any regulations or other supervisory policies regarding risk management that should be clarified or amended to adequately address any particular risks associated with methods of online banking?

Electronic Signatures in Global and National Commerce Act and Other Federal Laws That Affect Online Banking

The Board recognizes that the enactment of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) has addressed several important legal and regulatory issues regarding the uses of electronic media in commercial transactions.[8] For example, the E-Sign Act permits the retention of certain types of records in electronic form (subject to specified conditions) if such records are required by any other law or regulation.[9] Do any of the Board's regulations or supervisory policies require a banking organization to use or retain written forms, notices, or other records in a manner that hinders its ability to deliver financial products or services over the Internet? The Board requests comment on how particular provisions of the E-Sign Act, or any other law, affect financial institutions and their customers' ability to use (or ease of using) new technologies.

Differing Legal Requirements

Do certain provisions of Federal law that apply to online banking and lending practices make compliance with other provisions of State law (or laws enforced by foreign states) more costly? Are there particular aspects of conducting online banking and lending activities that could benefit from a single set of legal standards that can be applied uniformly nationwide?

Are there any inconsistencies between Federal and State laws or regulations that impede the electronic provision or use of financial products or services? For example, do State laws or regulations apply differently to state-chartered financial institutions, relative to federally chartered institutions, that conduct online banking and lending? Are there any State laws or regulations, such as licensing provisions for banking and other financial products and services, that affect the nationwide provision of financial products or services over the Internet?

By order of the Board of Governors of the Federal Reserve System, May 16, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–12689 Filed 5–18–01; 8:45 am]

BILLING CODE 6210–01–P

[4] *United States* v. *Philadelphia Nat'l Bank*, 374 U.S. 321 (1963) (In an action challenging a proposed merger of banks under the antitrust laws, the Court held, in relevant part, that the geographic market for the cluster of banking products and services is local in nature).

[5] 12 U.S.C. 321 (requiring, in relevant part, a state member bank to obtain the Board's approval to establish certain new branches ''beyond the limits of the city, town, or village in which the parent bank is located'').

[6] 12 CFR 229.2(f).

[7] 12 CFR 229.19(b).

[8] Pub. L. 106–229, 114 Stat. 464 (2000).

[9] Sec. 101(d), 114 Stat. 466–67.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–59–AD]

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

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), applicable to Pratt & Whitney (PW) JT8D series turbofan engines. That action would have superseded an existing AD to require initial and repetitive borescope inspections for loss of fuel nozzle nut torque and nozzle support wear, and replacement or modification of the fuel nozzles at the next accessibility of the diffuser build group as terminating action to the inspections. That proposal was prompted by reports of loss of fuel nozzle nut torque and nozzle support wear. Since the issuance of that NPRM, the FAA has reevaluated the likelihood that the unsafe condition will exist or develop on other products of the same type design. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7130; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to PW JT8D series turbofan engines, was published in the **Federal Register** on May 1, 1998 (63 FR 24138). The proposed rule would have required initial and repetitive borescope inspections for loss of fuel nozzle nut torque and nozzle support wear, and replacement or modification of the fuel nozzles at the next accessibility of the diffuser build group as terminating action to the inspections. That action was prompted by reports of loss of fuel nozzle nut torque and nozzle support wear. The proposed actions were intended to prevent loss of fuel nozzle nut torque and nozzle support wear, which could result in a fuel leak and possible engine fire.

Since issuing that NPRM, the FAA has reevaluated the safety concerns that the proposed actions would have

addressed using the most recent fleet data. Field experience shows that leaking fuel nozzles, which can lead to burn-through of the diffuser case, was a significant flight safety concern primarily at the number 7 location because of the proximity of oil lines. This is addressed by AD 95–02–16.

To date, there have not been any incidents of diffuser case burn-through due to fuel leakage across the fuel nozzle secondary seal where the fuel nozzle configuration is as prescribed by AD 95–02–16. There has been one incident where the fuel nozzle at the number 7 position has leaked due to loss of nut torque, ignited, and burned through the diffuser case. However, because the oil line fittings had been replaced in accordance with AD 95–02–16, there was no burn-through of the oil fittings and no oil fire. The following requirements of AD 95–02–16, are sufficient to mitigate the safety concern:

- Initial and repetitive inspections of the number 7 fuel nozzle and support assembly, AND
- Replacement of the number 7 fuel nozzle and support assembly with a more leak resistant configuration, AND
- Replacement of aluminum oil pressure and scavenge tube fittings with steel fittings, AND
- Replacement of an aluminum oil scavenge line bolt with a steel bolt.

Upon further consideration, the FAA has determined that there is no longer a likelihood that the unsafe condition will exist or develop on other products of the same type design, and as a result, superseding the existing AD is no longer required. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking 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 a notice of proposed rulemaking, 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 notice of proposed rulemaking, Docket 97–ANE–59–AD, published in the **Federal Register** on May 1, 1998, (63 FR 24138), is withdrawn.

Issued in Burlington, Massachusetts, on May 10, 2001.

Francis A. Favara,

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

[FR Doc. 01–12674 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Indian Arts and Crafts Board

25 CFR Part 309

RIN 1076–AE16

Protection of Products of Indian Art and Craftsmanship

AGENCY: Indian Arts and Crafts Board (IACB), DOI.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal establishes regulations to provide guidance to persons who produce, market, or purchase arts and crafts marketed as Indian products, as defined under the Indian Arts and Crafts Act of 1990. The proposed regulations further clarify the definition of ''Indian product'' by including specific examples of ''Indian product,'' as well as examples of what is not an ''Indian product,'' in the regulations implementing the Indian Arts and Crafts Enforcement Act of 2000, an amendment to the Indian Arts and Crafts Act of 1990.

DATES: Written comments must be received on or before August 20, 2001.

ADDRESSES: If you wish to comment on the proposed rule for the Indian Arts and Crafts Enforcement Act of 2000, you may submit your comments by any one of several methods. You may mail comments to: Director, Indian Arts and Crafts Board, Room 4004–MIB, 1849 C Street, NW., Washington, DC 20240. You may also fax comments to 202–208–5196 or comment via the Internet to *iacb@os.doi.gov.* Please also include ''Attn: RIN 1076–AE16 and your name and return address in your mailed, faxed, or Internet message. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation from the system that we received your Internet message, contact us directly at 202–208–3773.

FOR FURTHER INFORMATION CONTACT: Meridith Z. Stanton, Director, Indian Arts and Crafts Board, Room 4004–MIB, 1849 C Street, NW., Washington, DC 20240, telephone 202–208–3773 (not a toll-free call), fax 202–208–5196, or e-mail *iacb@os.doi.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Indian Arts and Crafts Board (IACB) was created by Congress pursuant to the Act of August 27, 1935 (49 Stat. 891; 25 U.S.C. 305 *et seq.*; 18 U.S.C. §§ 1158–59). The IACB is responsible for implementing the Indian Arts and Crafts Act of 1990, promoting the development of American Indian and Alaska Native arts and crafts, improving the economic status of members of federally recognized Tribes, and helping to establish and expand marketing opportunities for arts and crafts produced by American Indians and Alaska Natives.

The Indian Arts and Crafts Act of 1990, Public Law 101–644 (hereinafter the ''1990 Act''), is essentially a truth-in-marketing law designed to prevent marketing of products misrepresented as produced by Indians when the products are not, in fact, made by an Indian as defined by the 1990 Act. Under Section 104(a) of the 1990 Act (18 U.S.C. 1159(c)(2)), ''the terms 'Indian product' and 'product of a particular Indian Tribe or Indian arts and crafts organization' have the meaning given such term in regulations which may be promulgated by the Secretary of the Interior.''

Under the 1990 Act's current implementing regulations, at 25 CFR Part 309, prior to these amendments, the term ''Indian product'' is defined as:

''(1) In general. ''Indian product'' means any art or craft product made by an Indian.

''(2) Illustrations. The term Indian product includes, but is not limited to:

(i) Art works that are in a traditional or non-traditional Indian style or medium;

(ii) Crafts that are in a traditional or non-traditional Indian style or medium;

(iii) Handcrafts, i.e. objects created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

''(3) Exclusion for products made before 1935. The provisions of this part shall not apply to any art or craft products made before 1935.''

The above definition reflects the IACB's determination that ''Indian product'' under the 1990 Act applies to Indian arts and crafts, and not all products generally. This determination is consistent with the IACB organic legislation, the IACB's primary mission as established by Congress, and the Congressional intent of the 1990 Act. The 1935 cut-off date for products

regulated by the Act is in keeping with the Congressional intent of the 1990 Act and the legislated mission of the IACB—economic growth through the development and promotion of contemporary Indian arts and crafts.

The ''Indian product'' definition under the current regulations, at 25 CFR Part 309, focused on the nature and Indian origin of products covered by the 1990 Act, and did not provide specific arts and crafts examples. This proposed rule implements the Indian Arts and Crafts Enforcement Act of 2000, Public Law 106–497, (hereinafter the ''2000 Act'') by clarifying the definition of ''Indian product.'' It also provides specific examples of items that may be marketed as Indian products, thereby informing the public as to when an individual may be subject to civil or criminal penalties for falsely marketing a good as an ''Indian product.''

Section Analysis

Section 2 of the 2000 Act

The 2000 Act, an amendment to the Indian Arts and Crafts Act of 1990, Public Law 101–644, was enacted on November 9, 2000. Under this amendment, Congress sought to improve the cause of action for misrepresentation of Indian arts and crafts. Section 2 of the 2000 Act, directs the IACB to:

> Not later than 180 days after the date of the enactment of the Indian Arts and Crafts Enforcement Act of 2000, the IACB shall promulgate regulations to include in the definition of the term ''Indian product'' specific examples of such product to provide guidance to Indian artisans as well as to purveyors and consumers of Indian arts and crafts, as defined under this Act.

Tribal Consultation

Prior to drafting regulations for the 2000 Act, in early January 2001 the IACB sent out individual letters to all Tribal leaders of federally recognized Tribes informing them of the 2000 Act and providing them with copies of the legislation. The letters also invited them to designate a member of their staff or Tribal member from their arts and crafts community with whom the IACB could discuss their Tribe's interest in specific language for consideration in the further clarification of ''Indian product.'' This Tribal involvement was intended to ensure that the amended definition properly encompasses Indian art and craft products that should be protected by the 1990 Act. Throughout March, the IACB sent follow-up letters to the designees confirming their participation and providing them with additional background information for the teleconference. The following Tribes participated in teleconferences with IACB.

March 14, 2001

Representatives from the Rincon Indian Reservation, Valley Center, CA; Cow Creek Band of Umpqua Tribe of Indians, Roseburg, OR; and Pyramid Lake Pauite Tribe, Nixon, NV.

Representatives from The Cocopah Indian Tribe, Somerton, AZ; Kaibab Band of Paiute, Pine Spring, AZ; Tohono O'odham Nation of Arizona, Sells, AZ; and Pueblo of Acoma, Acoma, NM.

March 15, 2001

Representatives from the Poarch Band of Creek Indians, Atmore, AL; Mashantucket Pequot Tribal Nation, Mashantucket, CT; Nome Eskimo Community, Nome, AK, and Catawba Indian Nation, Rock Hill, SC.

March 16, 2001

Representatives from the Three Affiliated Tribes, Fort Berthold, ND; White Earth Nation, White Earth, MN; Lac du Flambeau Band of Lake Superior Chippewa Indians, Lac du Flambeau, WI; and Cayuga Nation, Versailles, NY.

March 21, 2001

Representative from the Pueblo of Zuni, Zuni, NM.

March 22, 2001

Representatives from the Miami Tribe of Oklahoma, Miami, OK; Cherokee Nation, Tahlequah, OK; Seminole Nation of Oklahoma, Wewoka, OK; The Chickasaw Nation, Ada, OK; and Southern Ute Indian Tribe, Ignacio, CO.

March 23, 2001

Representatives from the Jicarilla Apache Nation, Dulce, NM, and Oneida Indian Nation, Vernon, NY.

March 27, 2001

Representative from the Passamaquoddy Tribe of Maine, Princeton, ME.

Representatives from the Fallon Paiute-Shoshone Tribe, Fallon, NV.

Representatives from the Confederated Tribes and Bands of the Yakama Nation, Toppenish, WA.

March 29, 2001

Representative from the Sheep Ranch Rancheria of the Me-wuk Indians of California, Tracy, CA.

March 30, 2001

Representatives from the Confederated Tribes of the Umatilla Indian Reservation, Pendleton, OR.

April 16, 2001

Representative from the Fort Mojave Indian Tribe of Arizona, California, and Nevada, Needles, CA.

April 17, 2001

Representatives from the Hopi Tribe of Arizona, Kykotsmovi, AZ.

Public Comment Solicitation

If you wish to comment on the proposed rule for the 2000 Act, you may submit your comments by any one of several methods. You may mail comments to: Director, Indian Arts and Crafts Board, Room 4004–MIB, 1849 C Street, NW., Washington, DC 20240. You may also fax comments to 202–208–5196 or comment via the Internet to *iacb@os.doi.gov.* Please also include ''Attn: RIN 1076–AE16,'' your name and return address in your mailed, faxed, or Internet message. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation from the system that we received your Internet message, contact us directly at 202–208–3773.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

All communications received on or before the closing date for comments will be considered by the IACB before taking action on the proposed rule. The proposals contained in this document may be changed in light of comments received. All comments submitted will be available for examination in the rule docket after the closing date for comments at Room 4004–MIB, 1849 C Street, NW., Washington, DC, on weekdays, except federal holidays, between 8:30 a.m. and 5 p.m.

Drafting Information

This proposed rule was prepared by Meridith Z. Stanton (Director, Indian Arts and Crafts Board).

Compliance With Other Laws

1. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or tribal governments or communities. The rule is simply a Congressionally mandated further clarification of an existing regulatory definition of ''Indian product.''

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule, the further clarification of an existing regulatory definition of ''Indian product,'' does not involve another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule does not involve any budgetary or entitlements issues.

(4) This rule does not raise novel legal or policy issues. Again, it is simply the further clarification of an existing definition of ''Indian product.''

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) An unknown number of individuals, small businesses, and tribal governments may be affected in some way, but they do not exceed several thousand in aggregate.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The annual effect is insignificant.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Clarification of the term ''Indian product'' and guidance on how to represent Indian products in the marketplace will not cause any significant increase in the costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises. Through the clarification of the term ''Indian product,'' the ability of U.S.-based enterprises to compete with foreign-based enterprises will not be significantly affected. In fact, it should assist U.S. Indian arts and crafts producers to compete with counterfeit Indian arts and crafts produced overseas.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. It simply clarifies an existing regulatory definition of ''Indian product.'' A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule does not involve government action or interference with Constitutionally protected rights.

6. Federalism (Executive Order 12612)

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule does not affect the relationship between State and federal governments. A Federalism Assessment is not required.

7. Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor had determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

9. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

10. Clarity of this regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand.

We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *exsec@ios.doi.gov.*

List of Subjects in 25 CFR Part 309

Indians—arts and crafts, Penalties, Trademarks.

For the reasons set out in the preamble, part 309 of 25 CFR Chapter II is proposed to be amended as follows:

PART 309—PROTECTION OF INDIAN ARTS AND CRAFTS PRODUCTS

1. The authority citation for part 309 continues to read as follows:

Authority: 18 U.S.C. 1159, 25 U.S.C. 305 *et seq.*

2. In § 309.2, paragraph (d) is revised to read as follows:

§ 309.2 What are the key definitions for purposes of the Act?

* * * * *

(d) *Indian product* means any art or craft product made by an Indian. Indian labor makes the Indian art or craft object an *Indian product.*

(1) *Illustrations.* The term *Indian product* includes, but is not limited to:

(i) Art works made by an Indian that are in a traditional or non-traditional style or medium;

(ii) Crafts made by an Indian that are in a traditional or non-traditional style or medium;

(iii) Handcrafts made by an Indian, i.e. objects created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

(2) *Exclusions.* An *Indian product* under the Act is not any of the following:

(i) An Indian style art or craft product produced in a foreign country by non-Indian labor or craftsmanship using an Indian design;

(ii) An Indian style art or craft product produced in the United States by non-Indian labor or craftsmanship;

(iii) An Indian style art or craft product that is designed by an Indian but produced by non-Indian labor;

(iv) An Indian style art or craft product assembled from a kit;

(v) An Indian style art or craft product, originating from a commercial product, without a substantial handcraft element provided by Indian labor;

(vi) An industrial product, such as a bicycle assembled by Indian labor; or

(vii) An Indian style art or craft product produced in an assembly line or related production line process using multiple workers that is not all-Indian labor. For example, an Indian style pipe assembled by non-Indians with an Indian(s) supplying a few beads for accent is not an *Indian product.*

* * * * *

3. Sections 309.3 through 309.6 are redesignated as §§ 309.24 through 309.27.

4. New §§ 309.6 through 309.23 are added to read as follows:

§ 309.6 When does a commercial product become an Indian product?

In addressing Indian embellishments to originally commercial products, the Indian labor expended to add art or craftwork to those objects must be sufficient to change the nature, quality, and appearance of the original commercial item. Through substantial transformation due to Indian labor, a product changes from a commercial product to an Indian product. Examples of formerly commercial products that become Indian products include Indian beaded tennis shoes and Indian ribbon appliquéd denim jackets.

§ 309.7 How should a seller disclose the nature and degree of Indian labor when selling, offering, or displaying art and craftwork for sale?

The Indian Arts and Crafts Act is a truth-in-marketing law. Those who produce and market art and craftwork should honestly represent and clarify the degree of Indian involvement in the production of the art and craftwork when it is sold, displayed or offered for sale. The following guidelines illustrate how to characterize art and craftwork:

If . . .	then . . .
(a) An Indian conceives, designs, and makes the art or craftwork	it is an ''Indian product.''
(b) An Indian produces a product that meets the definition of ''handcrafted,'' in 309.2(d)(1)(iii)	it can be marketed as such and it meets the definition of ''Indian product.''
(c) An Indian makes an art or craftwork using some machine made parts	it is ''Indian made,'' and meets the definition of ''Indian product.''
(d) An Indian designs a product, such as a bracelet, which is then produced by non-Indians	it should be marketed as ''Indian designed.'' It does not meet the definition of ''Indian product'' under the Act.
(e) A product, such as jewelry, is assembled from a substantial amount of non-Indian made materials	it is not an ''Indian product.'' [1]
(f) A product is assembled by a non-Indian from a kit	it does not meet the definition of ''Indian product.'' To avoid misleading the consumer, this product should be marketed as ''assembled by a non-Indian from a kit'' on the product label and packaging.
(g) A product is in the style of an Indian art or craft product, but not made by an Indian	it should be marketed as ''Indian style'' or ''Indian inspired.'' It does not meet the definition of ''Indian product'' under the Act.
(h) An Indian non-Indian jointly undertake the art or craftwork to produce an art or craft product, for example a concho belt	only a percentage of the labor is Indian and it does not meet the definition of ''Indian product'' under the Act. [2]

[1] For example, a necklace strung with overseas manufactured fetishes or heshi does *not* meet the definition of ''Indian product'' under the Act. If an Indian assembled the necklace, in keeping with the truth-in-marketing focus of the Act, it should be marketed as ''Indian assembled.'' Similarly, if a product, such as a kachina, is assembled by an Indian from a kit, it should be marketed as ''Indian assembled'' and does not meet the definition of ''Indian product'' under the Act.

[2] In order to be an ''Indian product,'' the labor component of the product must be entirely Indian. In keeping with this truth-in-marketing law, the collaborative work should be marketed as such. Therefore, it should be marketed as produced by ''X'' (name of artist or artisan) of ''Y'' (enrolled Tribe) and ''Z'' (name of artist or artisan with no Tribe listed) to avoid misleading the consumer.

§ 309.8 For marketing purposes, what is the recommended method of identifying authentic Indian products?

The recommended method of marketing authentic Indian products is to include the ''name of the artist or artisan'' and the ''name of the Tribe'' in which the artist or artisan is enrolled. For example, the Indian product should include a label, hangtag, provenance card, or similar identification that includes the name of the artist or artisan and the name of the Tribe in which the artisan is enrolled.

§ 309.9 Is it illegal for a non-Indian to make and sell Indian style art or craft products?

A non-Indian can make and sell Indian style art or craft products only if the non-Indian or other seller does not mislead the consumer to believe that the products have been made by an Indian. These products should be offered for sale as ''non-Indian made,'' ''Indian inspired,'' or ''Indian style.''

§ 309.10 What are some sample categories and examples of Indian products?

What constitutes an Indian art or craft product is potentially very broad. However, to provide guidance to persons who produce, market, or purchase items marketed as Indian products, §§ 309.11 through 309.22 contain a sample listing of ''specific examples'' of objects that meet the definition of Indian products. There is some repetition, due to the interrelated nature of many Indian products. The listing in these sections contains examples, and is not intended to be all-inclusive. Additionally, although the Indian Arts and Crafts Act of 1990 and the Indian Arts and Crafts Enforcement Act of 2000 do not address materials used in Indian products, some materials are included for their descriptive nature only. This is not intended to restrict materials used or to exclude materials not listed.

§ 309.11 What are examples of jewelry that are Indian products?

(a) Jewelry and related accessories made by Indian labor using a wide variety of media, including, but not limited to, silver, gold, turquoise, coral, lapis, jet, nickel silver, glass bead, copper, wood, shell, walrus ivory, whale baleen, bone, horn, horsehair, quill, seed, and berry are Indian products.

(b) Specific examples include, but are not limited to: Ivory and baleen scrimshaw bracelets, abalone shell necklaces, nickel silver scissortail pendants, silver sand cast bracelets, silver overlay bolos, turquoise channel inlay gold rings, cut glass bead rosette earrings, wooden horse stick pins, and medicine wheel quilled medallions.

§ 309.12 What are examples of basketry that are Indian products?

(a) Basketry and related weavings made by Indian labor using a wide variety of media, including, but not limited to, birchbark, black ash, brown ash, cedar, willow, palmetto, honeysuckle, river cane, oak, buck brush, sumac, dogwood, cattail, reed, raffia, horsehair, pine needle, spruce root, rye grass, sweet grass, yucca, bear grass, beach grass, rabbit brush, hemp, maidenhair fern, whale baleen, seal gut, feathers, shell, devil's claw, and porcupine quill are Indian products.

(b) Specific examples include, but are not limited to: Double weave river cane baskets, yucca winnowing trays, willow burden baskets, honeysuckle sewing baskets, black ash picnic baskets, pine needle/raffia effigy baskets, oak splint and braided sweet grass fancy baskets, birchbark containers, baleen baskets, rye grass dance fans, brown ash strawberry baskets, sumac wedding baskets, cedar hats, hemp basket hats, yucca wicker basketry plaques, and spruce root tobacco pouches.

§ 309.13 What are examples of other weaving and textiles that are Indian products?

(a) Weavings and textiles made by Indian labor using a wide variety of media, including, but not limited to, cornhusk, raffia, tule, horsehair, cotton, wool, hemp, linen, rabbit skin, feather, bison fur, and qiviut (musk ox) wool are Indian products.

(b) Specific examples include, but are not limited to: Corn husk bags, twined yarn bags, cotton mantas, willow cradle boards, horsehair hatbands, Chiefs Blankets, Two Grey Hills rugs, horse blankets, finger woven sashes, brocade table runners, star quilts, pictorial appliqué wall hangings, hemp woven bags, embroidered dance shawls, rabbit skin blankets, and feather blankets.

§ 309.14 What are examples of beadwork, quillwork, and moose hair tufting that are Indian products?

(a) Beadwork, quillwork, and moose hair tufting made by Indian labor to decorate a wide variety of materials, including, but not limited to, bottles, baskets, bags, pouches, and other containers; belts, buckles, jewelry, hatbands, hair clips, barrettes, bolos, and other accessories; moccasins, vests, jackets, and other articles of clothing; and dolls and other toys and collectibles are Indian products.

(b) Specific examples include, but are not limited to: Quilled pipe stems, loom beaded belts, pictorial bags adorned with cut glass beads, deer skin moccasins decorated with moose hair tufting, beaded miniature dolls, and quilled and beaded amulets.

§ 309.15 What are examples of apparel that are Indian products?

(a) Apparel made or substantially decorated by Indian labor including, but not limited to, parkas, jackets, coats, moccasins, boots, slippers, mukluks, mittens, gloves, gauntlets, dresses, and shirts are Indian products.

(b) Specific examples include, but are not limited to: Seal skin parkas, ribbon appliqué dance shawls, smoked moose hide slippers, deer skin boots, patchwork jackets, calico ribbon shirts, wing dresses, and buckskin shirts.

§ 309.16 What are examples of regalia that are Indian products?

(a) Regalia are ceremonial clothing, modern items with a traditional theme, and accessories with historical significance made or significantly decorated by Indian labor, including, but not limited to, that worn to perform traditional dances, participate in traditional socials, used for dance competitions, and worn on special occasions of tribal significance. If these items are made or significantly decorated by Indian labor, they are Indian products.

(b) Specific examples include, but are not limited to: Hide leggings, buckskin dresses, breech cloths, dance shawls, frontlets, shell dresses, button blankets, feather bustles, porcupine roaches, beaded pipe bags, nickel silver stamped armbands, quilled breast plates, coup sticks, horse sticks, shields, headdresses, dance fans, and rattles.

§ 309.17 What are examples of woodwork that are Indian products?

(a) Woodwork made from wood by Indian labor, including, but not limited to, sculpture, drums, furniture, containers, hats, and masks are Indian products.

(b) Specific examples include, but are not limited to: Hand drums, totem poles, animal figurines, folk carvings, kachinas, long house posts, clan house carved doors, chairs, relief panels, bentwood boxes, snow goggles, hunting hats, spirit masks, bows and arrows, atlatls, redwood dug out canoes, war clubs, flutes, dance sticks, talking sticks, shaman staffs, cradles, decoys, spiral pipe stems, violins, and Native American Church boxes.

§ 309.18 What are examples of hide, leatherwork, and fur that are Indian products?

(a) Hide, leatherwork, and fur made or significantly decorated by Indian labor,

including, but not limited to, parfleches, tipis, horse trappings and tack, pouches, bags, and hide paintings are Indian products.

(b) Specific examples include, but are not limited to: Narrative painted hides, martingales, saddles, bonnet cases, drapes, quirts, forelocks, rosettes, horse masks, bridles, head stalls, cinches, saddle bags, side drops, harnesses, arm bands, belts, and other hand crafted items with studs and tooling.

§ 309.19 What are examples of pottery and ceramics that are Indian products?

(a) Pottery, ceramics, and related arts and crafts items made or significantly decorated by Indian labor, including, but not limited to, a broad spectrum of clays and ceramic material are Indian products.

(b) Specific examples include, but are not limited to: Ollas, pitch vessels, pipes, raku bowls, pitchers, canteens, effigy pots, wedding vases, micaceous bean pots, seed pots, masks, incised bowls, blackware plates, redware bowls, polychrome vases, and storytellers and other figures.

§ 309.20 What are examples of sculpture, carving, and pipes that are Indian products?

(a) Sculpture, carving, and pipes made by Indian labor including, but not limited to, wood, soapstone, alabaster, pipestone, argillite, turquoise, ivory, baleen, bone, antler, and shell are Indian products.

(b) Specific examples include, but are not limited to: Fetishes, animal figurines, pipestone pipes, moose antler combs, argillite bowls, ivory cribbage boards, whalebone masks, elk horn purses, and clamshell gorgets.

§ 309.21 What are examples of dolls and toys that are Indian products?

Dolls, toys, and related items made by Indian labor, including, but not limited to, no face dolls, corn husk dolls, kachina dolls, patchwork and palmetto dolls, reindeer horn dolls, lacrosse sticks, stick game articles, gambling sticks, gaming dice, miniature cradle boards, and yo-yos are Indian products.

§ 309.22 What are examples of painting and other fine art forms that are Indian products?

Painting and other fine art forms made by Indian labor, and include but are not limited to, works on canvas, photography, sand painting, mural, computer generated art, graphic art, video artwork, printmaking, drawing, bronze casting, glasswork, and art forms to be developed in the future are Indian products.

§ 309.23 Does this part apply to products made before 1935?

The provisions of this part do not apply to any art or craft products made before 1935.

Dated: May 14, 2001.

Robert Lamb,

Acting Assistant Secretary—Policy, Management, and Budget.

[FR Doc. 01–12666 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–84–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–99–007]

RIN 2115–AE47

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Coast Guard is withdrawing a notice of proposed rulemaking for the regulation governing the operation of the L & N Railroad/Old Gentilly Road bascule span drawbridge across the Inner Harbor Navigation Canal, mile 2.9 at New Orleans, Orleans Parish, Louisiana. This proposed rule was published, with request for comments, to allow the bridge to have remained closed to navigation for temporary periods of time, during the months of May, June, July, and September, 1999, for replacement of the damaged fender system. A final rule was not published for the proposed rulemaking. The fender system has been replaced and the temporary rule is no longer necessary.

DATES: The notice of proposed rulemaking is withdrawn effective May 21, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this notice of proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 15, 1999, the Coast Guard published a notice of proposed rulemaking in 64 FR 12795. The proposed temporary rule would have allowed the draw of the L & N bascule span bridge to remain closed to navigation daily from 8 a. m. until noon and from 1 p.m. until 5 p.m. from May 17 through May 28, 1999, June 1 through July 2, 1999, July 6 through September 3, 1999 and from September 7 through September 22, 1999. The comment period was limited to 45 days because the rule needed to be effective by May 17, 1999. At the end of the comment period, no comments had been received. However, there was not time to publish a final temporary rule prior to May 17, 1999. On July 19, 1999, the Coast Guard received notification that the fender system had been replaced ahead of schedule and the temporary rule was no longer necessary. The Coast Guard is withdrawing this notice of temporary rulemaking from drawbridge operating regulations (CGD08–99–007).

Dated: May 10, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–12721 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 094–0027b; FRL–6916–3]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Coconino County, Mohave County, and Yuma County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Coconino County, Mohave County, and Yuma County portions of the Arizona State Implementation Plan (SIP). These revisions concern the recision of all of the remaining defunct SIP rules from these counties. We are approving the recision of local rules that no longer regulate permitting procedures and various emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by June 20, 2001.

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

You may inspect copies of the submitted rule and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1135.

SUPPLEMENTARY INFORMATION: This proposal addresses the recisions of defunct SIP rules from Coconino County, Mohave County, and Yuma County. In the Rules and Regulations section of this **Federal Register**, we are approving the recision of these rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 13, 2000.

Keith A. Takata,

Acting Regional Administrator, Region IX.

[**Editorial note:** This document was received at the Office of the Federal Register on May 15, 2001.]

[FR Doc. 01–12573 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA157–4112b; FRL–6981–6]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Stage II Vapor Recovery Regulations for Southwest Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Pennsylvania Department of Environmental Protection (PADEP). This action proposes to approve PADEP's revised rules for the implementation of the control of volatile organic compounds (VOCs) from gasoline dispensing facilities (Stage II) in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal 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 June 20, 2001.

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

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, at the EPA Region III address above, or by e-mail at *wentworth.ellen@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: May 1, 2001.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 01–12575 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 01–05]

Alternative Dispute Resolution

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to issue new regulations implementing the Administrative Dispute Resolution Act. The new regulations would expand the Commission's Alternative Dispute Resolution (''ADR'') services, addressing guidelines and procedures for arbitration and providing for mediation and other ADR services. This proposed rule would replace current subpart U, Conciliation Service, with a new subpart U, Alternative Dispute Resolution, that would contain a new Commission ADR policy and provisions for various means of ADR. The proposal also would revise certain other regulations to conform to the Commission's new ADR policy.

DATES: Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications, no later than June 20, 2001.

ADDRESSES: Address all comments concerning this proposed rule to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001, E-mail: *secretary@fmc.gov.*

FOR FURTHER INFORMATION CONTACT: Ronald D. Murphy, Commission Dispute Resolution Specialist, Federal Maritime Commission 800 North Capitol Street, NW., Room 970, Washington, DC 20573–0001, 202–523–5787, E-mail: *adr@fmc.gov.*

SUPPLEMENTARY INFORMATION:

Alternative Dispute Resolution (''ADR'') refers to a variety of means to resolve conflicts or disputes, generally using a neutral third party to help the parties communicate and resolve their dispute. Generally, ADR is voluntary, and is designed to enable and empower the parties to a dispute to seek solutions which they decide meet their needs. ADR does not take the place of traditional processes; rather, it provides alternatives to traditional processes.

The Administrative Dispute Resolution Act (''ADRA'') was first promulgated in 1990 (Public Law No. 101–552), and subsequently amended in 1996 (Public Law No. 104–320). It defines ADR to mean any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, fact-finding, minitrials, arbitration, and use of ombuds, or any combination thereof, 5 U.S.C. 571(3).

It is difficult to precisely define the various procedures used under the umbrella of ADR. There are a variety of definitions and the various procedures often overlap each other. The definitions of the various procedures are not as important, however, as is their focus on resolving disputes. Nevertheless, the following general descriptions may help explain the broad range of ADR procedures provided for by ADRA.

Mediation is the most frequently used ADR procedure. It is a process in which a mediator facilitates communication and negotiation between or among parties to a controversy and assists them in reaching a mutually acceptable resolution of the controversy. Mediation is a voluntary procedure, the key aspect of which is that the parties control the terms of any agreement to resolve the dispute. Conciliation is similar, but is relatively informal and unstructured in comparison to mediation. It is often used as a ''cooling off'' device. Facilitation, on the other hand, is a group process that is usually goal-oriented. These procedures can be considered forms of assisted negotiation.

Fact-finding, as used in the ADR context, involves the use of a neutral third party to investigate and determine a disputed fact. It is usually used for technical issues or significant factual issues which are part of a larger dispute. Sometimes, fact-finding is used in conjunction with mediation to resolve a fact which may be important to resolution of the controversy. The term mini-trials may be used to describe a procedure whereby the parties present a summary case before a panel of the parties' decision-makers. The panel then may negotiate and seek a consensus.

Arbitration in the form provided for under the ADRA is perhaps familiar to most by the term ''binding arbitration.'' It is an adjudicatory process, the scope of which in a particular controversy is defined in an arbitration agreement. Awards in such proceedings are enforceable in federal District Court pursuant to title 9 of the U.S. Code.

The use of ombuds was added to ADRA's definition of ADR in the 1996 amendments. It involves the use of an employee or organization component to whom complaints or problems can be brought with the hopes of quick, informal resolution.

Section 2 of ADRA spells out a number of congressional findings that led to passage of the statute. Among them are the increasingly formal, costly and lengthy administrative proceedings that were intended to offer a prompt, expert and inexpensive means of resolving disputes as an alternative to Federal court litigation. Also, ADR has been used in the private sector for many years, yielding quicker, less expensive and less contentious decisions.

Section 3 of ADRA requires each agency to adopt a policy that addresses the use of ADR and case management. In developing the policy, agencies are required to examine ADR in connection with formal and informal adjudications, rulemakings, enforcement actions, issuing and revoking licenses or permits, contract administration, and litigation by or against the agency.

On July 13, 1993, the Commission issued an Alternative Dispute Resolution Policy Statement. In it, the Commission stated its policy to encourage the use of ADR to the fullest extent compatible with the law and the agency's mission and resources. It noted that Commission employees and other persons involved in disputes before the Commission are required to consider at an early stage whether the use of ADR techniques would be appropriate and useful in a particular matter.

The policy statement noted that several rules of the Commission's Rules of Practice and Procedure address the issue of ADR. Rule 1 refers to the mandatory consideration of the use of ADR in all proceedings. Rule 56 deals with negotiated rulemakings. Rule 61 requires orders instituting a formal investigation or noticing the filing of a complaint to contain language requiring that, prior to the commencement of oral hearing, consideration be given by the parties and presiding officer to the use of alternative means of dispute resolution. Rule 94 authorizes presiding officers to direct parties to attend one or more prehearing conferences and requires that the use of alternative means of dispute resolution be considered at such conferences. Rule 147 provides authority to the presiding officer to encourage the use of ADR and require consideration of ADR at an early stage in the proceeding. Rule 91(d) specifically authorizes the Chief Administrative Law Judge to appoint a mediator or settlement judge acceptable to all parties. In addition, nonattorneys may be admitted to practice before the Commission and persons may appear on their own behalf or on behalf of their employer without having been admitted to practice, 46 CFR 502.27.

The policy statement also identifies other means of implementing ADR at the Commission. The informal procedure for adjudication of claims of $10,000 or less in Subpart S, in effect, involves a form of arbitration. The shortened procedure in Subpart K provides a means to have the complaint resolved by an administrative law judge upon a written record without oral hearing. A conciliation service is provided for under Subpart U, and the policy statement also refers generally to services provided by the then Office of Informal Inquiries, Complaints and Informal Dockets within the Office of the Secretary. Those services are now provided by the Office of Consumer Complaints within the Bureau of Consumer Complaints and Licensing.

The Commission's rules provide for nonadjudicatory investigations under Subpart R and compromise procedures under Subpart W. Moreover, the services of a Settlement Judge are available and will continue to be available pursuant to section 502.91.

In addition to requiring an agency policy statement, ADRA requires each agency to designate a Dispute Resolution Specialist of the agency, and to provide for training on a regular basis for the Dispute Resolution Specialist and other employees involved in implementing the agency's policy. The Commission has designated the Deputy Director, Bureau of Consumer Complaints and Licensing as its Dispute Resolution Specialist, 46 CFR 501.5(h)(1).

Other key provisions of ADRA authorize agencies to use a dispute resolution proceeding for the resolution of an issue in controversy if the parties

agree to such proceeding, 5 U.S.C. 572; provide that a neutral may be an officer or employee of the Federal Government or any other individual acceptable to the parties, 5 U.S.C. 573; provide for confidentiality of communications, 5 U.S.C. 574; and provide for arbitration in lieu of formal administrative proceedings, 5 U.S.C. 575–580.

When reorganizing the Commission in February 2000, one of the primary reforms was a plan to develop a refined ADR program for the Commission. The intent was to involve the agency more deeply in ADR and other mediation activities so as to find ways to settle disputes without having them processed via costly and time-consuming formal adjudications. Since then, Commission staff has been developing the ADR process and pursuing training and developmental activities.

The Commission's Dispute Resolution Specialist is a certified mediator and has made his services available to parties in formal complaint proceedings. Recently, those mediation services were instrumental in the parties to such a proceeding reaching an agreement that resolved not only the formal proceeding pending at the Commission, but also a pending suit before a state court.

Also within the scope of the Commission's Dispute Resolution Services are the ombuds services provided by the Office of Consumer Complaints (''OCC'') within the Bureau of Consumer Complaints and Licensing. During the past year, a number of events have caused many to avail themselves more of those services. The failure of a number of non-vessel-operating common carriers (''NVOCCs'') generated numerous complaints from shippers and freight forwarders. Some of the problems affected commercial shippers, while others concerned individual shippers of household goods and automobiles. Also, a number of problems were experienced with unlicensed and unbonded NVOCCs that failed to fulfill their transportation commitments. A number of these matters were resolved to the satisfaction of shippers and forwarders. In addition, recent failures of cruise lines have generated a substantial number of complaints. For the most recent fiscal year, the Commission's ombuds services responded to more than 2900 inquiries and complaints, and the efforts of OCC yielded over $193,000 in recoveries for those making complaints.

At this time, the Commission intends to further expand ADR services available from the Commission and issue the following proposed new rules. The proposed rules would implement an enhanced, comprehensive ADR program. These rules would emphasize requiring ADR consideration at early stages of proceedings and would provide for arbitration of matters at the Commission. The Commission will endeavor to provide mediation and other assisted negotiation procedures, and the rules provide for such services. Section 502.61 would be modified to make it mandatory for parties to consider ADR at an early stage of every proceeding in such a manner as the presiding Administrative Law Judge shall direct. Section 502.62 would be modified to require complainants to address the use of ADR when filing a complaint. Section 502.91 is revised to expand the means of ADR available in proceedings before Administrative Law Judges and to require the parties to consider ADR in all proceedings. Section 502.94 is modified to require consideration of ADR at prehearing conferences. Also, the current $10,000 limitation for informal docket proceedings in 502.301 has not been raised in a number of years, and would be raised to $50,000.

Finally, the conciliation service provided for in Subpart U of the Commission's Rules of Practice and Procedure has rarely been utilized, and would now be revised to provide a framework by which the Commission will provide a number of ADR services. Although many provisions of the proposed rule may seem focused on the use of ADR in formal proceedings, the Commission encourages use of the Commission's dispute resolution services at any stage. To do so, parties should contact the Commission's Dispute Resolution Specialist.

The provisions in the new proposed Subpart U regarding arbitration and confidentiality for the most part would be identical to provisions in the ADRA. Section 502.411, however, provides for mediation and other services, and makes clear that mediators and other neutrals involved in various means of dispute resolution are not bound by the Commission's *ex parte* rules. Mediators would be expressly authorized to conduct private sessions (or caucuses) with parties. While many mediators attempt to resolve disputes with little use of such caucuses, their use can be very effective in resolving many disputes.

The proposed rule contains no additional information collection or record keeping requirements and need not be submitted to OMB for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Chairman certifies, pursuant to 5 U.S.C. 605, that the proposed rule would not have a significant impact on a substantial number of small entities. The final rule would expedite the complaint process, thereby reducing costs to small entities, while at the same time providing them with more assistance.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Federal Maritime Commission proposes to amend 46 CFR part 502 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority section is revised to read:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 5 U.S.C. 571–584; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817d, 817e, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1964–1965 Comp. p. 306; 21 U.S.C. 853a; Pub. L. 105–258, 112 Stat. 1902.

2. Section 502.61 is amended by revising paragraph (d) to read as follows:

§ 502.61 Proceedings.

* * * * *

(d) All orders instituting a proceeding or noticing the filing of a complaint will contain language requiring that at an early stage of the proceeding and when practicable the parties shall consider the use of alternative dispute resolution in such manner as the presiding officer shall direct and further requiring that hearings shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. [Rule 61.]

2a. Section 502.62 is amended by redesignating paragraphs (e) through (h) as paragraphs (f) through (i) and adding a new paragraph (e) to read as follows:

§ 502.62 Complaints and fee.

* * * * *

(e) Complainant(s) must state whether informal dispute resolution procedures were used prior to filing the complaint and whether complainant(s) consulted with the Commission Dispute

Resolution Specialist about utilizing alternative dispute resolution (ADR) under the Commission's ADR program.

* * * * *

3. Section 502.91 is amended by revising current paragraph (d) and adding new paragraphs (e) and (f) to read as follows:

§ 502.91 Opportunity for informal settlement.

* * * * *

(d) As soon as practicable after the commencement of any proceeding, the presiding judge shall direct the parties or their representatives to consider the use of alternative dispute resolution, including but not limited to mediation, and may direct the parties or their representatives to consult with the Federal Maritime Commission Alternative Dispute Resolution Specialist about the feasibility of alternative dispute resolution.

(e) Any party may request that a mediator or other neutral be appointed to assist the parties in reaching a settlement. If such a request or suggestion is made and is not opposed, the presiding judge will appoint a mediator or other neutral who is acceptable to all parties, coordinating with the Federal Maritime Commission Alternative Dispute Resolution Specialist. The mediator or other neutral shall convene and conduct one or more mediation or other sessions with the parties and shall inform the presiding judge, within the time prescribed by the presiding judge, whether the dispute resolution proceeding resulted in a resolution or not, and may make recommendations as to future proceedings. If settlement is reached, it shall be submitted to the presiding judge who shall issue an appropriate decision or ruling. All such dispute resolution proceedings shall be subject to the provisions of subpart U.

(f) Any party may request that a settlement judge be appointed to assist the parties in reaching a settlement. If such a request or suggestion is made and is not opposed, the presiding judge will advise the Chief Administrative Law Judge who may appoint a settlement judge who is acceptable to all parties. The settlement judge shall convene and preside over conferences and settlement negotiations and shall report to the presiding judge within the time prescribed by the Chief Administrative Law Judge, on the results of settlement discussions with appropriate recommendations as to future proceedings. If settlement is reached, it shall be submitted to the presiding judge who shall issue an appropriate decision or ruling. [Rule 91].

4. Section 502.94 is amended by revising paragraph (c) to read as follows:

§ 502.94 Prehearing conference.

* * * * *

(c) At any prehearing conference, consideration shall be given to whether the use of alternative dispute resolution would be appropriate or useful for the disposition of the proceeding whether or not there has been previous consideration of such use.

5. Section 502.301 is amended by revising paragraph (b) to read as follows:

§ 502.301 Statement of policy.

* * * * *

(b) With the consent of both parties, claims filed under this subpart in the amount of $50,000 or less will be decided by a Settlement Officer appointed by the Commission's Alternative Dispute Resolution Specialist, without the necessity of formal proceedings under the rules of this part. Authority to issue decisions under this subpart is delegated to the appointed Settlement Officer.

* * * * *

6. Subpart U is revised in its entirety to read as follows:

Subpart U—Alternative Dispute Resolution

Sec.

§ 502.401 Policy.

It is the policy of the Federal Maritime Commission to use alternative means of dispute resolution to the fullest extent compatible with the law and the agency's mission and resources. The Commission will consider using ADR in all areas including workplace issues, formal and informal adjudication, issuance of regulations, enforcement and compliance, issuing and revoking licenses and permits, contract award and administration, litigation brought by or against the Commission, and other interactions with the public and the regulated community. The Commission will provide learning and development opportunities for its employees to develop their ability to use conflict resolution skills, instill knowledge of the theory and practice of ADR, and to facilitate appropriate use of ADR. To this end, all parties to matters under this part are required to consider use of a wide range of alternative means to resolve disputes at an early stage. Parties are encouraged to pursue use of alternative means through the Commission's Bureau of Consumer Complaints and Licensing in lieu of or prior to initiating a Commission proceeding. All employees and persons who interact with the Commission are encouraged to identify opportunities for collaborative, consensual approaches to dispute resolution or rulemaking.

§ 502.402 Definitions.

(a) *Alternative means of dispute resolution* means any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, factfinding, minitrials, arbitration, and use of ombuds, or any combination thereof;

(b) *Award* means any decision by an arbitrator resolving the issues in controversy;

(c) *Dispute resolution communication* means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participant; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

(d) *Dispute resolution proceeding* means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

(e) *In confidence* means, with respect to information, that the information is provided—

(1) With the expressed intent of the source that it not be disclosed; or

(2) Under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

(f) *Issue in controversy* means an issue which is material to a decision concerning a program of the Commission, and with which there is disagreement—

(1) Between the Commission and persons who would be substantially affected by the decision; or

(2) Between persons who would be substantially affected by the decision;

(g) *Neutral* means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy; and

(h) *Person* has the same meaning as in 5 U.S.C. 551(2).

§ 502.403 General authority.

(a) The Commission intends to consider using a dispute resolution proceeding for the resolution of an issue in controversy, if the parties agree to such proceeding.

(b) The Commission will consider not using a dispute resolution proceeding if—

(1) A definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

(2) The matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

(3) Maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

(4) The matter significantly affects persons or organizations who are not parties to the proceeding;

(5) A full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

(6) The Commission must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the Commission's fulfilling that requirement.

(c) Alternative means of dispute resolution authorized under this subpart are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

§ 502.404 Neutrals.

(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

(c) With consent of the parties, the Commission's Dispute Resolution Specialist will seek to provide a neutral in dispute resolution proceedings through Commission staff, arrangements with other agencies, or on a contractual basis.

(d) Fees. Should parties choose a neutral other than an official or employee of the Commission, fees and expenses shall be borne by the parties as the parties shall agree.

§ 502.405 Confidentiality.

(a) Except as provided in paragraphs (d) and (e) of this section, a neutral in a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any dispute resolution communication or any communication provided in confidence to the neutral, unless—

(1) All parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication was provided by a nonparty participant, that participant also consents in writing;

(2) The dispute resolution communication has already been made public;

(3) The dispute resolution communication is required by statute to be made public, but a neutral should make such communication public only if no other person is reasonably available to disclose the communication; or

(4) A court determines that such testimony or disclosure is necessary to—

(i) Prevent a manifest injustice;

(ii) Help establish a violation of law; or

(iii) Prevent harm to the public health or safety, of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

(b) A party to a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any dispute resolution communication, unless—

(1) The communication was prepared by the party seeking disclosure;

(2) All parties to the dispute resolution proceeding consent in writing;

(3) The dispute resolution communication has already been made public;

(4) The dispute resolution communication is required by statute to be made public;

(5) A court determines that such testimony or disclosure is necessary to—

(i) Prevent a manifest injustice;

(ii) Help establish a violation of law; or

(iii) Prevent harm to the public health and safety, of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential;

(6) The dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award; or

(7) Except for dispute resolution communications generated by the neutral, the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.

(c) Any dispute resolution communication that is disclosed in violation of subsection (a) or (b) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

(d)(1) The parties may agree between or amongst themselves to alternative confidential procedures for disclosures by a neutral. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of paragraph (a) of this section that will govern the confidentiality of the dispute resolution proceeding in accordance with the guidance on confidentiality in federal proceedings published by the Inter Agency ADR Working Group and adopted by the ADR Council. (see *http://www.financenet.gov /financenet/fed/iadrwg/confid.pdf*). If the parties do not so inform the neutral, (a) shall apply.

(2) To qualify for the exemption under paragraph (j) of this section, an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section.

(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution communication, the neutral shall make reasonable efforts to notify the parties

and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

(g) Paragraphs (a) and (b) of this section shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

(h) Paragraphs (a) and (b) of this section shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifiable.

(i) Paragraphs (a) and (b) of this section shall not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution communication is disclosed only to the extent necessary to resolve such dispute.

(j) A dispute resolution communication which is between a neutral and a party and which may not be disclosed under this section shall also be exempt from disclosure under 5 U.S.C. 552(b)(3).

§ 502.406 Arbitration.

(a) (1) Arbitration may be used as an alternative means of dispute resolution whenever all parties consent, except that arbitration may not be used when the Commission or one of its components is a party. Consent may be obtained either before or after an issue in controversy has arisen. A party may agree to—

(i) Submit only certain issues in controversy to arbitration; or

(ii) Arbitration on the condition that the award must be within a range of possible outcomes.

(2) The arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing. Each such arbitration agreement shall specify a maximum award that may be issued by the arbitrator and may specify other conditions limiting the range of possible outcomes.

(b) With the concurrence of the Dispute Resolution Specialist, binding arbitration may be used to resolve any and all disputes that could be the subject of a Commission administrative proceeding before an Administrative Law Judge. The Dispute Resolution Specialist may withhold such concurrence after considering the factors specified in § 502.403, should the Commission's General Counsel object to use of binding arbitration.

(c)(1) The Commission's Dispute Resolution Specialist will appoint an arbitrator of the parties' choosing for an arbitration proceeding.

(2) A Commission officer or employee selected as an arbitrator by the parties and appointed by the Dispute Resolution Specialist shall have authority to settle an issue in controversy through binding arbitration pursuant to the arbitration agreement; provided, however, that decisions by arbitrators shall not have precedential value with respect to decisions by Administrative Law Judges or the Commission. Administrative Law Judges may be appointed as arbitrators with the concurrence of the Chief Administrative Law Judge.

(d) The arbitrator shall be a neutral who meets the criteria of 5 U.S.C. 573.

§ 502.407 Authority of the arbitrator.

An arbitrator to whom a dispute is referred may—

(a) Regulate the course of and conduct arbitral hearings;

(b) Administer oaths and affirmations;

(c) Compel the attendance of witnesses and production of evidence at the hearing under the provisions of 9 U.S.C. 7 only to the extent the Commission is otherwise authorized by law to do so; and

(d) Make awards.

§ 502.408 Conduct of arbitration proceedings.

(a) The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

(b) Any party wishing a record of the hearing shall—

(1) Be responsible for the preparation of such record;

(2) Notify the other parties and the arbitrator of the preparation of such record;

(3) Furnish copies to all identified parties and the arbitrator; and

(4) Pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

(c)(1) The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

(3) The hearing shall be conducted expeditiously and in an informal manner.

(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

(d) The provisions of § 502.11 regarding *ex parte* communications apply to all arbitration proceedings. No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policies underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

(e) The arbitrator shall make an award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless the parties agree to some other time limit.

§ 502.409 Arbitration awards.

(a)(1) The award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

(2) Exceptions to or an appeal of an arbitrator's decision may not be filed with the Commission.

(b) An award entered in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding.

§ 502.410 Representation of parties.

(a) The provisions of § 502.21 apply to representation of parties in dispute resolution proceedings, as do the provisions of § 502.27 regarding representation of parties by nonattorneys.

(b) A neutral in a dispute resolution proceeding may require participants to demonstrate authority to enter into a binding agreement reached by means of a dispute resolution proceeding.

§ 502.411 Mediation and other alternative means of dispute resolution.

(a) Parties are encouraged to utilize mediation or other forms of alternative dispute resolution in all formal proceedings. The Commission also encourages those with disputes to pursue mediation in lieu of, or prior to, the initiation of a Commission proceeding.

(b) Any party may request, at any time, that a mediator or other neutral be appointed to assist the parties in reaching a settlement. If such a request is made in a proceeding assigned to an Administrative Law Judge, the provisions of § 502.91 apply. For all other matters, alternative dispute resolution services may be requested directly from the Commission's Alternative Dispute Resolution Specialist, who may serve as the neutral if the parties agree or who will arrange for the appointment of a neutral acceptable to all parties.

(c) The neutral shall convene and conduct mediation or other appropriate dispute resolution proceedings with the parties.

(d) Ex-parte Communications. Except with respect to arbitration, the provisions of 502.11 do not apply to dispute resolution proceedings, and mediators are expressly authorized to conduct private sessions with parties.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–12500 Filed 5–18–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 96–262; FCC 01–146]

Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on whether tariffed competitive LEC-provided access service for toll free, or ''8YY,'' numbers should be benchmarked to a different figure than the Commission has adopted for CLEC tariffed switched access traffic generally.

DATES: Comments are due by June 20, 2001. Reply comments are due by July 20, 2001. Written comments by the public on the proposed and/or modified information collections discussed in this Further Notice of Proposed Rulemaking are due by June 20, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections by July 20, 2001.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to vhuth@omb.eop.gov. Parties should also send one paper copy of their filings to Jane Jackson, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, SW., Room 5–A225, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Jeffrey H. Dygert, Common Carrier Bureau, (202) 418–1500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 96–262 released on April 27, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

This FNPRM contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

The FNPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection(s) contained in this FNPRM, as required by the PRA, Public Law 104–13. Public and agency comments on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due by June 20, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections by July 20, 2001.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Synopsis of FNPRM

I. Further Notice of Proposed Rulemaking

1. Shortly before we issued the final rule that is published elsewhere in this issue, AT&T asserted, for the first time in this proceeding, that CLEC originating 8YY, toll-free traffic should be subject to a different benchmark scheme than other categories of switched access traffic. AT&T argues that the benchmark for CLEC 8YY traffic should immediately move to the access rate of the competing ILEC and that CLECs should be mandatorily detariffed above that point. In support of this position, AT&T asserts that certain CLECs with higher access charges attempt to obtain as customers end users that typically generate high volumes of 8YY traffic, such as hotels and universities. AT&T further asserts that some CLECs then ''install limited, high-capacity facilities designed only to handle 8YY traffic'' and ''share their access revenues with the customers generating the [8YY] traffic'' through agreements that provide for payments to the end user based on the level of 8YY

traffic it generates. AT&T contends that such arrangements do not promote the development of local exchange competition. Rather, it argues that these arrangements merely create the incentive for end users artificially to generate heavy 8YY traffic loads, which, in turn generate revenues for CLECs and their end-user customers.

2. Given the paucity of record evidence on this issue, we seek comment generally on AT&T's proposal immediately to benchmark CLEC 8YY access services to the ILEC rate. Is the generation of 8YY traffic in order to collect greater access charges, as AT&T complains, something that the Commission should attempt to address through a rulemaking, or should the IXCs be left to address specific instances of abuse directly with the relevant CLEC, with the aid of the Commission's complaint process where appropriate? In this regard, we note AT&T's assertion that one recent case of apparent abuse, confirmed by WorldCom, arose from the sequential dialing of over 800,000 8YY calls by a single end user. It appears that, even without the rule it now requests, AT&T may, through discussions with the relevant CLEC, have been able to act to prevent payment for improperly generated 8YY access minutes.

3. We seek comment on the magnitude of the potential problem with 8YY traffic that AT&T identifies. AT&T estimates that approximately 30% of its CLEC access traffic is generated by 8YY aggregators that, it speculates, have revenue-sharing agreements with their end-user subscribers. Is this an accurate figure across the industry? How many minutes and what premium over the competing ILEC rate does this represent? More generally, what proportion of CLEC access traffic is composed of originating 8YY service? What proportion of CLEC end users have 8YY revenue-sharing agreements with their carrier?

4. Are CLECs continuing to offer 8YY revenue-sharing agreements to their new end users, or are they currently available only to end users that negotiated them at some point in the past? Do CLECs notice a difference in the 8YY traffic patterns generated by end users with revenue-sharing agreements, compared to those end users without such agreements? What are the typical terms of a revenue-sharing agreement? Do they provide for payment of a per-minute fee for 8YY traffic, a per-call fee or some other arrangement? What is the magnitude of the fee paid? How, if at all, will the Commission's imposition of the switched-access benchmark affect CLECs' existing revenue-sharing agreements?

5. We are concerned that AT&T's proposed solution to the problem it identifies may paint with too broad of a brush. Does the existence of some CLECs' revenue-sharing agreements justify immediately limiting CLEC tariffed access rates for all 8YY traffic to the rate of the competing ILEC? Should the Commission instead impose such a limitation only on those CLECs that actually offer revenue-sharing agreements to their end users?

6. Additionally, we seek comment on AT&T's assertion that it promotes neither appropriate policy goals nor the development of local exchange competition when a CLEC carries an end user's 8YY traffic without also providing that end user with local exchange service or other types of access service. Would we be justified in immediately tying 8YY access tariffs to the ILEC rate for all CLECs, regardless of the services that they provide to their end users? Or would such a rule be appropriate, if at all, only for those CLECs that carry exclusively their end users' 8YY traffic? How does the presence or absence of revenue-sharing agreements, discussed, fit into the analysis of whether a CLEC's service offerings support restricting their tariffed 8YY access rates to the competing ILEC's rate?

7. We question whether, at bottom, CLEC 8YY traffic is inherently worthy of lower access charges than are other types of access traffic. A CLEC provides a closely similar service and uses similar or identical facilities, regardless of whether it provides originating 8YY access service, or terminating or originating access service for conventional 1+ calls. Accordingly, we seek comment on whether the presence of certain incentives to generate artificially high levels of 8YY traffic necessarily justifies reducing the tariffed rate for all such traffic immediately to the ILEC rate. Should we instead presume that there exists some ''legitimate'' level of CLEC 8YY traffic that should be treated as other categories of access traffic and subject to a lower benchmark only the traffic that exceeds this ''legitimate'' level? If this is an appropriate alternative, how should we define the level at or below which 8YY access traffic may be subject to the higher tariff benchmark that we permit for other categories of CLEC access service? Additionally, we seek comment on any other reasons that CLEC 8YY traffic should be subjected to a different tariff benchmark than are other categories of CLEC access traffic. We also seek comment on whether, if we adopt a different benchmark for 8YY access services, there are any different tariff filing requirements or timetables that we might adopt to account for the resources available to small entities. Commenters should indicate whether and how such provisions would be consistent with our goals in this proceeding, including our obligation to ensure just and reasonable rates for interstate access services.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Further Notice. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this Notice, which are set out. The Commission will send a copy of this Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, this Further Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Action

9. In this Further Notice, the Commission sets a benchmark for CLEC interstate switched access services that declines over time to the competing ILEC rate. In the Further Notice, the Commission seeks comment on a proposal offered by AT&T to move immediately the benchmark for CLEC 8YY access services to the competing ILEC rate and to mandatorily detariff CLEC interstate access rates for such 8YY traffic above that point. The Commission seeks comment on the nature and extent of the problem alleged by AT&T and on various means of addressing CLEC 8YY access service rates. Through the Further Notice, the Commission seeks to ensure that CLEC rates for 8YY access services are just and reasonable.

2. Legal Basis

10. The legal basis for the action as proposed for this rulemaking is contained in sections 1–5, 201–205, 208, 251–271, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151–155, 201–205, 208, 251–271, 403, 502, and 503.

3. Description and Estimate of the Number of Small Entities To Which the Proposed Action May Apply

11. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. To estimate the number of small entities that may be affected by the proposed rules, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that is independently owned and operated; is not dominant in its field of operation; and meets any additional criteria established by the SBA. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.

12. The rules adopted in this order apply to CLECs and IXCs. Neither the Commission nor the SBA has developed a definition of small CLECs or small IXCs. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that telecommunications carriers file annually in connection with the Commission's universal services requirements. According to our most recent data, 349 companies reported that they were engaged in the provision of either competitive access services or competitive local exchange services (referred to collectively as CLECs) and 204 companies reported that they were engaged in the provision of interexchange services. Among these companies, we estimate that approximately 297 of the CLECs have 1500 or fewer employees and that approximately 163 of the IXCs have 1500 or fewer employees. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are 297 or fewer small CLECs, and 163 or fewer small IXCs that may be affected by the decisions and rules adopted in this order.

4. Description of Proposed Reporting, Recordkeeping, and Other Compliance Requirements

13. In the *CLEC Access Order*, the Commission sets a benchmark for CLEC interstate switched access services that declines over time to the competing ILEC rate. Through the Further Notice, the Commission seeks comment on whether it should move immediately the benchmark for CLEC 8YY access services to the competing ILEC rate and mandatorily detariff CLEC interstate access rates for such 8YY access services above that point. Adopting this proposal may require CLECs to refile tariffs with the Commission or to negotiate contracts with IXCs, rather than filing tariffs.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

14. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; the use of performance, rather than design, standards; and an exemption from coverage of the rule, or any part thereof, for small entities.

15. As mentioned, through the Further Notice, the Commission seeks to ensure that CLEC rates for 8YY access services are just and reasonable. Our proposals may affect CLECs, by altering the rates that they may tariff for 8YY access services. At the same time, our proposals might affect indirectly IXCs that must pay access charges for 8YY traffic. Because there are both small entity IXCs and small entity CLECs—with conflicting interests in this proceeding—we expect that small entities may be affected by any approach that we adopt. We seek an approach that both reduces opportunities for regulatory arbitrage and minimizes the burdens placed on carriers.

16. Among the alternatives proposed, the Commission seeks comment whether it should move immediately the benchmark for CLEC 8YY access services to the competing ILEC rate and mandatorily detariff CLEC interstate access rates for such 8YY access services above that point. The Commission seeks comment, to the extent that it finds that a separate benchmark is appropriate for 8YY access rates, on whether it should instead impose such a limitation only on those CLECs that offer revenue-sharing agreements to their end users or only on those CLECs that do not offer local exchange services in addition to their 8YY access services. Alternatively, the Commission seeks comment on whether the Commission should take no additional action and whether IXCs should be left to address specific instances of abuse directly with the relevant CLEC, with the aid of the Commission's complaint process where appropriate.

17. We also seek comment on whether, if we adopt a different benchmark for 8YY access services, there are any different tariff filing requirements or timetables that we might adopt to account for the resources available to small entities. We ask commenters to indicate whether and how such provisions would be consistent with our goals in this proceeding, including our obligation to ensure just and reasonable rates for interstate access services.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

18. None.

B. Comment Filing Procedures

19. Pursuant to §§ 1.415, 1.419, and 1.430 of the Commission's rules, interested parties may file comments by June 20, 2001, and reply comments by July 20, 2001. All filings should refer to CC Docket No. 96–262. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, CC Docket No. 96–262. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to

<ecfs@fcc.gov>, and should include the following words in the body of the message: ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

20. Parties that choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW–B204, 445 12th Street, SW., Washington, DC 20554. Regardless of whether parties choose to file electronically or by paper, parties should also serve: (1) Jane Jackson, Common Carrier Bureau, 445 12th Street, SW., Room 5–A225, Washington, DC 20554; and (2) the Commission's copy contractor, International Transcription Service, Inc. (ITS), 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 857–3800, with copies of any documents filed in this proceeding. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

21. Parties that choose to file by paper should also submit their comments on diskette to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036. These submissions should be on a 3.5-inch diskette formatted in a Windows-compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, CC Docket No. 96–262), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file.

22. Comments and reply comments must comply with § 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments.

23. That this proceeding will continue to be governed by ''permit-but-disclose'' *ex parte* procedures that are applicable to non-restricted proceedings under 47 CFR 1.1206. This will provide an opportunity for all interested parties to receive notice of the various issues raised in *ex parte* presentations made to the Commission in this proceeding; it will also allow interested parties to file responses or rebuttals to proposals made on the record in this proceeding. We find that it is in the public interest to continue this proceeding's designation as ''permit-but-disclose.''

24. Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 voice, (202) 418–7365 TTY, or <bmillin@fcc.gov>. This further notice of proposed rulemaking can also be downloaded in Microsoft Word and ASCII formats at <http://www.fcc.gov/ccb/cpd>.

III. Ordering Clauses

25. Pursuant to sections 1–5, 201–205, 303(r), 403, 502, and 503 of the Communications Act of 1934, as amended, this Further Notice of Proposed Rulemaking is hereby adopted.

26. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–12756 Filed 5–18–01; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 66, No. 98
Monday, May 21, 2001

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

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: May 31, 2001 (8:45 a.m. to 4 p.m.).

Location: Wyndham Washington DC, 1400 M Street, NW., Washington, DC.

This meeting will feature discussion of USAID's new approach to doing business in the Bush Administration. The new USAID Administrator, Andrew S. Natsios, will speak about his priorities for foreign assistance and his plans for the Agency.

The meeting is free and open to the public. Persons wishing to attend the meeting can fax or e-mail their name to Rhonda Fagan, (703) 931–9300, rfagan@datexinc.com.

Dated: May 1, 2001.

Noreen O'Meara,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA).

[FR Doc. 01–12665 Filed 5–18–01; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–002–1]

Notice of Request for Reinstatement of an Expired Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an expired information collection that it utilizes in regulating the interstate movement of horses that have tested positive for equine infectious anemia.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by July 20, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–002–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–002–1.

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

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

FOR FURTHER INFORMATION CONTACT: For information regarding regulations for the interstate movement of horses that have tested positive for equine infectious anemia, contact Dr. Timothy Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 734–7709. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Communicable Diseases in Horses.

OMB Number: 0579–0127.

Expiration Date of Approval: January 31, 2001.

Type of Request: Reinstatement of an expired information collection.

Abstract: The Animal and Plant Health Inspection Service regulates the interstate movement of horses that have tested positive for equine infectious anemia (EIA) in order to prevent the spread of this disease (9 CFR 75.4). Enforcing these regulations requires us to engage in a number of information gathering activities that enable us to accurately identify and track EIA reactors as they move interstate.

Specifically, this regulatory program requires the use of an official EIA test, a certificate allowing the interstate movement of an EIA reactor, and identification of the reactor. The program also involves the services of accredited veterinarians, State veterinary officials, laboratory/diagnostic/research facility personnel, and stockyard personnel, all of whom must engage in various recordkeeping and information collection activities.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities in connection with our EIA program for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection activity. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.0912 hours per response.

Respondents: State and Federal veterinarians, accredited veterinarians, laboratory/diagnostic/research facility personnel, stockyard personnel, animal owners, and exporters.

Estimated annual number of respondents: 10,053.

Estimated annual number of responses per respondent: 107.

Estimated annual number of responses: 1,075,003.

Estimated total annual burden on respondents: 98,055 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 16th day of May 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12693 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–006–1]

Notice of Request for Reinstatement of an Expired Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an expired information collection in support of regulations preventing the spread of the Asian longhorned beetle and restricting the interstate movement of regulated articles from the quarantined areas.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by July 20, 2001.

ADDRESSES: Please send four copies (an original and three copies) of your comment to: Docket No. 01–006–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–006–1.

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

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

FOR FURTHER INFORMATION CONTACT: For information on Asian longhorned beetle quarantine regulations, contact Mr. Michael B. Stefan, Staff Officer, Invasive Species and Pest Management Staff, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–7338. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Asian Longhorned Beetle Quarantine.

OMB Number: 0579–0122.

Expiration Date of Approval: January 31, 2001.

Type of Request: Reinstatement of an expired information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, the control and eradication of plant pests. The Plant Protection Act authorizes the Department to carry out this mission.

The Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for implementing the provisions of the Act and does so through the enforcement of its domestic quarantine regulations in 7 CFR part 301.

The Asian longhorned beetle (native to China, Japan, Korea, and the Isle of Hainan) is a destructive pest of hardwood trees, including maple, elm, ash, and horse chestnut. The beetles bore into the heartwood of host trees, eventually killing them.

The Asian longhorned beetle has been found in hardwood trees in the boroughs of Brooklyn, Manhattan, and Queens in New York City, NY, and in portions of Suffolk and Nassau Counties, NY. The Asian longhorned beetle has also been found in the Village of Summit and portions of Cook and Du Page Counties, IL. If this insect spreads into the hardwood forests of the United States, it could cause substantial economic harm to the U.S. nursery and forest products industries.

To prevent this, we have regulations in place (contained in 7 CFR 301.51–1 through 301.51–9) quarantining the areas described above. These regulations also restrict the movement of regulated articles (such as nursery stock, green lumber, firewood, and other items) from these quarantined areas.

These regulations are designed to prevent the spread of the Asian longhorned beetle within the United States. Implementing the regulations requires us to engage in certain information collection activities, which necessitates the use of several forms, including limited permits, certificates, and compliance agreements.

We are asking the Office of Management and Budget (OMB) to approve these forms for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.4190 hours per response.

Respondents: State plant health protection authorities, State cooperators, and individuals involved in growing, packing, handling, transporting, and exporting plants and plant products.

Estimated annual number of respondents: 225.

Estimated annual number of responses per respondent: 1.4.

Estimated annual number of responses: 315.

Estimated total annual burden on respondents: 132 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 16th day of May 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12694 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–013–2]

Protection of Sunflowers from Red-Winged Blackbirds in North Dakota, South Dakota, and Minnesota

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent and initiation of scoping.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service's Wildlife Services program intends to prepare an environmental impact statement for a project to protect sunflowers from red-winged blackbird damage. The environmental impact statement will analyze the potential environmental effects of reducing blackbird damage to ripening sunflowers in North Dakota, South Dakota, and Minnesota. We are also requesting comments from the public, including affected Federal, State, and local agencies, any affected Indian tribe, and any other interested persons concerning issues that should be addressed in the environmental impact statement. The information received in response to this notice, as well as the information we received in response to our March 2001 notice on this subject, will be considered during the development of the environmental impact statement that will be prepared in accordance with the National Environmental Policy Act.

DATES: We invite you to comment on this notice of intent. We will consider all comments that we receive by June 20, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–013–2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–013–2.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mastrangelo, State Director, Wildlife Services, APHIS, USDA, 2110 Miriam Circle, Suite A, Bismarck, ND 58501–2502; phone (701) 250–4405.

SUPPLEMENTARY INFORMATION: Wildlife Services (WS) of the Animal and Plant Health Inspection Service (APHIS) provides technical and operational assistance to entities who request assistance in reducing damage, in this case to sunflower producers. WS loans damage abatement equipment (*e.g.,* propane cannons, pyrotechnics), conducts training workshops, provides informational leaflets on damage management and sources of damage abatement tools, and, in the case of blackbird damage to sunflowers, conducts roost management programs to disperse blackbirds from sunflower production areas.

Approximately 80 percent of sunflower production in the United States occurs in North Dakota, South Dakota, and Minnesota. Sunflower production in these States has increased from 1 million kg in the early 1960's to about 1.5 billion kg, valued at $315 million, in 1999. However, increased production of sunflowers has been hampered by increasing blackbird populations, and resultant damage. Esophageal contents of red-winged blackbirds collected in late summer and fall reveal that 93 percent of the males and 86 percent of the females had eaten sunflower seeds, which comprised 69 percent and 57 percent of the male and female diets, respectively.

Damage surveys conducted in sunflower production areas in North Dakota, South Dakota, and Minnesota indicate that overall loss is generally 1 to 2 percent of the crop. If all producers received less than 2 percent damage, there would be little concern for damage caused by blackbirds. However, damage is not equally distributed, can be severe for some producers, and is fairly consistent from year-to-year within a locality. Research has been conducted throughout the northern Great Plains to estimate the amount of damage birds have caused to ripening sunflower crops. Sunflower damage assessments for North Dakota, South Dakota, and Minnesota showed an estimated loss of $5.1 million in 1979 and $7.9 million in 1980. More recent quantitative bird damage surveys were conducted from 1996 to 1998 in Stutsman and Pierce Counties in North Dakota and Brown and Clark Counties in South Dakota. Assuming damage in these four counties is representative of the damage in sunflower growing areas in North Dakota, South Dakota, and Minnesota, sunflower producers in these States lost about $8.26 million annually to blackbirds.

Sunflower growers and Government agencies have used both lethal and nonlethal techniques to reduce red-winged blackbird damage to ripening sunflowers. The goal of nonlethal methods is to decrease the availability or attractiveness of the crop to blackbirds or to disperse the birds so that damage is not concentrated in any given area. Examples of nonlethal methods include altering farming practices, using audio and visual frightening devices, growing bird-resistant sunflowers, increasing weed control in fields, and growing decoy crops. Additionally, research has shown that opening dense cattail stands, which are traditional roost sites for blackbirds, aids in dispersing blackbirds from nearby sunflower crops. To date, nonlethal blackbird damage management initiatives have been somewhat effective in reducing blackbird damage to unharvested sunflowers, but have not alleviated the problem for all sunflower growers.

Proposed Program

WS is proposing to implement a blackbird damage management program on private lands when requested in North Dakota, South Dakota, or Minnesota. The management approach would employ the use of nonlethal and lethal techniques to reduce red-winged blackbird damage to sunflowers. Sunflower damage and blackbird populations would be monitored to determine if the management techniques are reducing damage, if there is an effect on blackbird populations, or if additional methods or modification of implemented methods should occur.

Nonlethal Techniques

Under the proposed management program, WS would continue to employ the use of the nonlethal control methods described earlier in this document. WS would also continue to conduct roost management programs to disperse red-

winged blackbirds away from sunflower production areas. Roost management activities involve the treatment of cattail stands larger than 10 acres with glyphosate herbicide. Effective management of cattail stands can disperse blackbirds from traditional roosting sites that are often in close proximity to sunflower crops.

Lethal Techniques

Under the proposed management program, WS would employ the use of 2 percent DRC–1339-treated brown rice at red-winged blackbird staging areas in the spring to reduce breeding populations and subsequent damage to ripening sunflowers in the fall. DRC–1339 baiting would occur on not more than 50 acres in harvested fields near red-winged blackbird staging areas in east-central South Dakota and target not more than 2 million red-winged blackbirds annually. The baiting areas would be determined based on the most current red-winged blackbird roost site distribution and the areas where red-winged blackbirds stage. Baiting areas and sites would be determined through field observations by trained personnel, and DRC–1339-treated bait would not be distributed until risks to nontarget species were evaluated.

Prior EPA-Authorized Use of DRC–1339

The avian toxicant DRC–1339 (3-Chloro-p-toluidine hydrochloride) has been used to reduce blackbird populations causing agricultural damage in Louisiana, North Dakota, South Dakota, and Texas under Section 24C of the Federal Insecticide, Fungicide, and Rodenticide Act. In February 1995, the Environmental Protection Agency (EPA) granted a Section 3 label for ''Compound DRC–1339 Concentrate Staging Areas'' for bird control in noncrop staging areas associated with red-winged blackbird roosts. The Section 24C label for ''Compound DRC–1339 Concentrate ND and SD'' is still in effect for North Dakota because this label allows a broader use pattern, including baiting within ripening sunflower fields during late summer.

Scoping Process

The initial step in the process of developing an environmental impact statement (EIS) is scoping. Scoping includes solicitation of public involvement in the form of either written or oral comments, and evaluation of these comments. This process is used for determining the scope of issues to be addressed. We are therefore asking for written comments that identify significant environmental issues that should be analyzed in the EIS. We invite comments from affected Federal, State, and local agencies, any affected Indian tribe, and any other interested persons, and from Federal and State agencies that have either jurisdiction by law or special expertise regarding any issue or environmental impact that should be discussed in the EIS.

Note: On March 22, 2001, we published a notice in the **Federal Register** (66 FR 16028–16031, Docket No. 01–013–1) soliciting public involvement in the development of issues necessary to complete an analysis of the environmental impacts of reducing red-winged blackbird damage to ripening sunflowers in North Dakota, South Dakota, and Minnesota. We solicited comments on that notice for 30 days ending on April 23, 2001, and received 163 comments by the close of the comment period and an additional 27 comments by April 30, 2001. We will consider all the comments that we received in response to our March 22, 2001, notice during the preparation of the EIS that is the subject of this notice. Therefore, if you submitted comments in response the March 2001 notice, you do not need to resubmit those comments in order for the information provided in them to be considered during the development of the EIS.

We are encouraging members of the public and interested agencies and organizations to assist in the planning of this program and the development of an EIS by answering the following questions:

- What issues or concerns about the proposed sunflower protection program should we analyze?
- What alternatives to the proposed action should we analyze?
- Do you have additional information (*i.e.*, scientific data or studies) that we should consider in the analysis?

Alternatives

We will consider all reasonable and realistic action alternatives recommended in the comments we receive. The following alternatives have already been identified for comprehensive analysis in the EIS:

- No involvement by WS in sunflower protection (no Federal program);
- Non-lethal before lethal program;
- Continue the current WS blackbird damage management program;
- Integrated adaptive management with the use of DRC–1339 baiting to reduce damage caused by red-winged blackbirds (preferred action);
- Lethal only program; and
- Payment of compensation to affected growers.

Major Issues

The following are some of the major issues that will be discussed in the EIS:

- Cumulative effects of the proposed damage management program on red-winged blackbird populations;
- Safety concerns regarding the potential effects of the proposed damage management program on the public, domestic pets, and nontarget species, including threatened and endangered species;
- Efficacy of DRC–1339 spring baiting in reducing damage to unharvested sunflowers;
- Public concern about WS' use of chemicals; and
- DRC–1339 spring baiting effects on biodiversity.

Other alternatives and issues may also be included in the analysis and will be identified based on comments submitted by the public and other agencies and organizations.

Preparation of the EIS

Following completion of the scoping process, we will prepare a draft EIS for the program to protect sunflowers from blackbird damage. A notice announcing that the draft EIS is available for review will then be published in the **Federal Register**. The notice will also request comments concerning the draft EIS.

Done in Washington, DC, this 16th day of May 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–12695 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Forest Service

Duck Creek—Swains Access Management Project, Dixie National Forest, Iron, Garfield, and Kane Counties, UT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare an environmental impact statement (EIS) for the Forest Service to implement several proposals within the Duck Creek—Swains Access Management Project area, on the Cedar City Ranger District, Dixie National Forest. These proposals include:

1. Maintain approximately 286 miles of road open to motorized vehicle travel. These roads are presently open to motorized use, and will remain open. Approximately 32 miles of these roads are open to street-legal vehicles only and would continue with the same management.

2. Construct 30 miles of motorized vehicle trail by restricting travel to motorized trail use on approximately 28 miles of road, and constructing approximately two miles of new trail. Motorized travel that would be allowed would consist of ATV's and motorcycles. Foot, horse, and bicycle use would also be allowed. This trail construction would include constructing a bridge over Swains Creek. These motorized trails would be segments that would connect existing trails with the goal to improve travel to destination points. Combined with the existing Duck Creek ATV trail, the total motorized travel would be approximately 32 miles.

3. Remove (decommission) approximately 122 miles from the road system and close to public motorized use. Levels of decommissioning on all or parts of these roads may include blocking the entrance, reestablishing vegetation and water barring, removing fills and culverts, establishing drainage ways and removing unstable road shoulders, or full obliteration by recontouring and restoring natural slopes. Recontouring would generally occur on slopes exceeding 30%. Approximately five segments of road totaling 1.3 acres would need recontouring. Three segments on unclassified road U–434 would need recontouring; two are within T.37S.,R.6W., Section 18, and one in T.37S.,R.7W., Section 13. The other two segments are on unclassified roads: U–349, near Swains Creek in T.38S., R.7W., Section 13; and U–85 in T.38S., R.7W., Section 28.

4. Close approximately 180 miles of road to motorized public use, retaining them on the Forest Transportation System for forest management needs. These roads would be kept on the Forest Transportation System for forest management, but not open to public motorized vehicle use. Methods used to close these roads would include a variety of techniques depending on road condition, topography, vegetation type and condition, and soil type. Management options could include gates, logs, rocks, signs, brush piles, or segments of fence.

5. Amend the Dixie National Forest Travel Plan to implement a ''closed to motorized vehicle use, unless posted open'' signing program in the Duck Creek—Swains Area. This proposed activity would be administrative in nature and would not involve ground-disturbing activities. The present direction in the travel plan that prohibits off-road vehicle use (except snowmobiles when adequate snow exists) would remain in effect and unchanged.

6. Relocate approximately one-eighth of a miles of the Bower's Flat road out of a wet meadow. Relocating the Bower's Flat road would require heavy equipment to create a new road and restore the old road and disturbed meadow to natural condition. The legal location is: T.37S., R.7W., Section 33.

7. Any new roads or travel ways developed by users and not approved by the Forest Service and observed after this proposal and corresponding decision will be decommissioned. The purpose of the Roads Analysis and this proposal is to identify which roads are needed for forest management, including recreation needs. In compliance with Federal Regulations at 36 CFR 212 *et al.* January 12, 2001, roads that are not needed will be decommissioned.

The purpose of these proposals is to initiate actions that would improve the motorized transportation system, improve habitat for wildlife, and reduce sedimentation and erosion. The project area is located approximately 24 miles east of Cedar City, Utah. The project would be implemented in accordance with direction in the Land and Resource Management Plan (Forest Plan) for the Dixie National Forest, 1986.

The agency gives notice that the environmental analysis process is underway. During the analysis process, an issue surfaced that warranted the disclosure of effects under an EIS. This issue is the high degree of interest associated with closing roads in the area.

Interested and potentially affected persons, along with local, state, and other Federal agencies, are invited to participate in, and contribute to, the environmental analysis. The Dixie National Forest invites written input regarding issues specific to the proposed action.

DATES: Written comments to be considered in the preparation of the Draft Environmental Impact Statement (DEIS) should be submitted on or before June 20, 2001. The DEIS is expected to be available for review by August 2001. The Record of Decision and Final Environmental Impact Statement are expected to be available by December 2001.

ADDRESSES: Submit written comments to: District Ranger, Cedar City Ranger District, 82 North 100 East, P.O. Box 0627, Cedar City, Utah 84721–0627; FAX: (801) 865–3791; E-mail: psummers@fs.fed.us

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Priscilla R. Summers, Project Environmental Coordinator, by mail at 82 North 100 East, P.O. Box 627, Cedar City, Utah 84721–0627; or by phone at (801) 865–3700; FAX: (801) 865–3791; E-mail: psummers@fs.fed.us

SUPPLEMENTARY INFORMATION: The proposed project is located in a 93,099-acre analysis area (including 20,241 acres on private land) in the Lower Mammoth, West Fork Asay Creek, Asay Creek, Duck Creek, Strawberry Creek, Swains Creek, and Castle Creek watersheds of the Upper Sevier Sub-Basin; and Upper North Fork Virgin River, Muddy Creek, Lydia's Canyon, Stout Canyon, and Upper East Fork Virgin River watersheds of the Upper Virgin Sub-Basin. There are approximately 617 miles of road in the project area, with increasing all-terrain vehicle (ATV) use.

The purpose of the project is to improve the motorized travel system in the project area while reducing erosion and sedimentation, and improving habitat for wildlife.

Construction of approximately two miles of motorized vehicle trail will connect existing routes to provide improved access to destination points (mostly private lands within the area). Road density of the area is approximately 4.8 miles per square mile. The guideline in the Dixie National Forest Land and Resource Management Plan is two miles of road per square mile or less. Generally, road densities above two miles per square mile reduce habitat effectiveness and habitat quality for big game. The higher the road density, the lower the quality of habitat. Roads within nesting areas for raptors causes disturbance to adults and young, and can cause nesting failure.

Stream crossings that lack adequate structures incur higher levels of sedimentation and erosion than those with proper structures. There are five streams lacking these structures that are causing undesirable sedimentation into streams. Approximately 12 miles of road in the project area are hydrologically connected to streams. Runoff on these roads delivers sediment from the road directly into the stream. Approximately 24 miles of road have poor drainage where people drive around the wet area creating a new route or widening the existing one. This is occurring in a wet meadow on one road, which is impacting the meadow in larger and larger areas each year.

Signing in the area is an open unless closed system. Enforcement of closures is difficult because signs get torn down. Currently, motor vehicle use is only

allowed on roads and designated motorized vehicle trails. Off-road use is prevalent and common, which has created what appear to be new roads . With the present signing system, closing this road with a sign and assuring that the sign remains in place is difficult. There are approximately four miles of unauthorized ATV trail that are causing undesirable impacts to streams and/or wildlife habitat.

Motorized vehicle trail construction (including a bridge), road closures, road decommission, and signing roads closed unless posted open would occur on National Forest system lands located within portions of Sections 23–26, and 35–36 of T.37S., R.8W., Salt Lake Base Meridian (SLBM), Iron County, UT; Sections 13–14, and 22–36 of T.37S., R.7W., and Sections 3–6, 17–23, and 26–35 of T.37S., R.6W., Salt Lake Base Meridian (SLBM), Garfield County, UT; and Sections 1–29, 33–36 of T.38S., R.8W.; Sections 1–36 of T.38S., R.7W.; Sections 3–8, 17–20, and 28–33 of T.28–33 of T.38S., R.6 W.; Sections 4–8, and 17–20 of T.39S. R.6W.; Sections 1–24 of T.39S., R.7W.; and Sections 1–3, and 11–13 of T. 39S., R.8W., Salt Lake Base Meridian (SLBM), Kane County, UT.

The proposed actions would implement management direction, contribute to meeting the goals and objectives identified in the Dixie National Forest Land and Resource Management Plan, and move the project area toward the desired condition. This project EIS would be tiered to the Dixie National Forest Land and Resource Management Plan EIS (1986), which provides goals, objectives, standards and guidelines for the various activities and land allocations on the Forest.

No permits or licenses are required to implement the proposed action and the issuing authority is the Forest Service.

As lead agency, the Forest Service would analyze and document direct, indirect, and cumulative environmental effects for a range of alternatives. Each alternative would include mitigation measures as necessary and monitoring requirements. No alternatives to the proposed action have been identified at this time, however, the following preliminary issue has been identified: (1) Use of roads within nesting areas for northern goshawk and peregrine falcon contribute to nesting failures.

Mary Wagner, Forest Supervisor, Dixie National Forest, is the responsible official. She can be reached by mail at 82 North 100 East, P.O. Box 580, Cedar City, Utah, 84720–0580.

The Forest Service is seeking comments from individuals, organizations, and local, state, and Federal agencies who may be interested in or affected by the proposed action. Scoping notices have been sent to potentially affected persons and those currently on the Dixie National Forest mailing list that have expressed interest in timber management proposals, proposals relating to wildlife habitat modifications and Forest Plan amendments. Other interested individuals, organizations, or agencies may have their names added to the mailing list for this project at any time by submitting a request to: Priscilla R. Summers, Project Environmental Coordinator, 82 North 100 East, P.O. Box 627, Cedar City, UT 84720–0627.

The analysis area includes both National Forest System lands and private lands. Proposed treatments would occur only on National Forest system lands. Motorized trails are proposed to cross State Highway 14. No federal or local permits, licenses or entitlements would be needed.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could have been raised at the DEIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in the proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at the time it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns about the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: May 11, 2001.

Mary Wagner,

Forest Supervisor, Dixie National Forest.

[FR Doc. 01–12664 Filed 5–18–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Quarterly Financial Reports (QFR) Program.

Form Number(s): QFR–101(MG), 101A(MG), 102(TR), 103(NB).

Agency Approval Number: 0607–0432.

Type of Request: Extension of a currently approved collection.

Burden: 77,708 hours.

Number of Respondents: 13,125.

Avg Hours Per Response: 2 hours and 3 minutes.

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

The QFR is scheduled to convert to the North American Industry Classification System (NAICS) in April 2002 with the publication of the fourth quarter 2001 data. With the adoption of the NAICS, a number of industries currently covered by QFR under the Standard Industrial Classification (SIC) system will be out of scope. Specifically, QFR will no longer collect

data from companies primarily engaged in Publishing and Printing, except Commercial Printing; Logging; and Eating and Drinking Places. Publishing and Printing was moved to the NAICS Information sector; Logging to the Agriculture, Forestry; Fishing, and Hunting sector; Eating and Drinking Places to the Accommodation and Food Services sector. This request is for extension of the current OMB approval.

Affected Public: Businesses or other for-profit organizations.

Frequency: Quarterly and annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Section 91; P.L. 105–252.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 15, 2001.

Madeleine Clayton,

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

[FR Doc. 01–12672 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–07–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–811]

Certain Hot-Rolled Carbon Steel Flat Products from Ukraine; Notice of Postponement of Final Determination in the Antidumping Duty Investigation

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

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Lori Ellison, Laurel LaCivita, or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5811, (202) 482–4243, and (202) 482–3818, respectively.

The Applicable Statute

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

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On May 2, 2001, the Department received a request pursuant to section 735(a)(2)(A) of the Act to postpone its final determination until 135 days after publication of the Department's preliminary determination and to extend the imposition of provisional measures from a four-month period to not more than six months from respondent Zaporizhstal Iron and Steel Works, ''the Midland group of companies'' (i.e. Midland Industries Limited, Midland Metals International, Inc., and Midland Resources Holding Limited), and the State Committee of Industrial Policy of Ukraine.

In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the respondent requesting a postponement accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination to no later than September 15, 2001, which is 135 days after the publication of the preliminary determination. *See Notice of Preliminary Determination of Sales at Less than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from Ukraine.* Suspension of liquidation will be extended accordingly.

This notice of postponement is published pursuant to 19 CFR 351.210(g).

Dated: May 15, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12750 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan: Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review: mechanical transfer presses from Japan.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan in response to a request by respondent, Komatsu, Ltd. (Komatsu). This review covers shipments of this merchandise to the United States during the period of February 1, 1999 through January 31, 2000. On March 8, 2001, we published our preliminary determination that U.S. sales were not made below normal value (NV). We have affirmed this finding in these final results. We will instruct the U.S. Customs Service to liquidate entries without regard to antidumping duties.

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Sally Gannon, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0666 or (202) 482–0162, respectively.

Applicable Statute

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

all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (2000).

Background

On March 8, 2001, the Department published the preliminary results of review for the period February 1, 1999 through January 31, 2000 (66 FR 13891). We invited parties to comment on our preliminary results of review. On April 9, 2001, Komatsu submitted a case brief alleging that the Department had erroneously omitted home market indirect selling expenses from its analysis, and that the preliminary results as published in the **Federal Register** contained an error. On April 12, 2001, Komatsu withdrew its allegation regarding home market indirect selling expenses, but maintained its allegation of an error in the **Federal Register** notice. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8462.99.0035 and 8466.94.5040. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive. The term ''mechanical transfer presses'' refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover certain parts and accessories, which were determined to be outside the scope of the order. (See ''Final Scope Ruling on Spare and Replacement Parts,'' U.S. Department of Commerce, March 20, 1992; and ''Final Scope Ruling on the Antidumping Duty Order on Mechanical Transfer Presses (MTPs) from Japan: Request by Komatsu, Ltd.,'' U.S. Department of Commerce, October 3, 1996.) This review covers one manufacturer of MTPs, and the period February 1, 1999 through January 31, 2000.

Comments From Interested Parties and Changes Since the Preliminary Results

Komatsu has alleged that the **Federal Register** notice publishing the Department's preliminary results did not accurately state Komatsu's margin. Komatsu alleged that, while the notice stated that its margin was 0.99 percent, the Department had calculated its margin to be 0.00 percent. We agree with Komatsu. The Department calculated a preliminary margin of 0.00 percent for Komatsu, as can be seen in the *Memorandum to the File from Mark Hoadley through Sally Gannon; Analysis of Komatsu, Ltd.* (Feb. 14, 2001), and as can also be inferred from the surrounding context of the preliminary notice. Therefore, as there are no other allegations or comments from interested parties regarding our preliminary results of review, we find a margin of 0.00 percent for Komatsu for purposes of these final results.

Final Results of Review

We determine that the following percentage weighted-average margin exists for the period February 1, 1999 through January 31, 2000:

Manufacturer/ exporter	Time period	Margin percent
Komatsu, Ltd. ...	02/01/99–01/31/00	0.00

Because the weighted-average dumping margin is zero, we will instruct the U.S. Customs Service to liquidate entries made during this review period without regard to antidumping duties for the subject merchandise that Komatsu exported.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of MTPs from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 14.51 percent. This rate is the ''All Others'' rate from the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

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

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

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

Dated: May 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12751 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Oil Country Tubular Goods From the Republic of Korea; Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of changed circumstances antidumping duty administrative review.

SUMMARY: On March 1, 2001, the Department of Commerce published a notice of initiation in the above-named case. As a result of this review, the Department of Commerce preliminarily finds for the purposes of this proceeding that Hyundai Steel Company (''Hyundai Hysco'') is the successor-in-interest to Hyundai Pipe Company, Ltd. (''HDP'').

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Scott Lindsay, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5255 and (202) 482–3782, respectively.

Applicable Statute

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

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2001, the Department published a notice of initiation in this changed circumstances review (*see Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review,* 66 FR 12925). On March 20, 2001, the Department conducted a verification of Hyundai Hysco at its headquarters in Seoul. *See Memorandum to the File: Verification of Hyundai Hysco in the Changed Circumstance Review of Oil Country Tubular Goods and Circular Welded Non-Alloy Steel Pipe from South Korea,* dated April 13, 2001. Verification results are outlined in the public version of the verification report on file in Room B–099 of the main Commerce building.

Scope of the Review

The products covered by this order are oil country tubular goods (''OCTG''), hollow steel products of circular cross-section, including only oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (''API'') or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. Although the HTSUS item numbers are provided for convenience and Customs purposes, the written description remains dispositive of the scope of this review.

Preliminary Results

In making successor-in-interest determinations, the Department examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See e.g., Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review,* 57 FR 20460, 20461 (May 13, 1992). While no single factor, or combination of factors, will necessarily prove dispositive, the Department will generally consider the new company to be the successor to its predecessor company if the resulting operations are essentially the same as the predecessor company. *See e.g., Id.* and *Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review,* 59 FR 6944, 6945 (February 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as its predecessor, the Department will assign the new company the cash-deposit rate of its predecessor.

Based on the information submitted by Hyundai Hysco during the initiation stages of this changed circumstances review and the information examined during verification, we preliminarily determine that Hyundai Hysco is the successor-in-interest to HDP. We find the company's organizational structure, senior management, production facilities, supplier relationships, and customers have remained essentially unchanged. Furthermore, Hyundai Hysco has provided sufficient internal and public documentation of the name change. Based on all the evidence reviewed, we find that Hyundai Hysco operates as the same business entity as HDP. Thus, we preliminarily determine that Hyundai Hysco should be excluded from the antidumping duty order as was it's predecessor company, HDP.

Public Comment

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed-circumstances review, including the results of its analysis of issues raised in any written comments.

We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and §§ 351.216 and 351.222 of the Department's regulations.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–12749 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Visiting Committee on Advanced Technology, National Institute of Standards and Technology (NIST), will meet Tuesday, June 5, 2001 from 8:15 a.m. to 5:15 p.m. and Wednesday, June

6, 2001 from 8:30 a.m. to 11:40 a.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of NIST; who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include a Cross-cut Review of Human Resources, a presentation by a member of the Visiting Committee, a laboratory tour of the Center for Advanced Research in Biotechnology, and a Cross-cut Review of NIST Impact on Law Enforcement. Discussions scheduled to begin at 4 p.m. end at 5:15 p.m. on June 5, 2001 and to begin at 8:15 a.m. and to end at 11:40 a.m. on June 6, 2001, on staffing of management positions at NIST, the NIST budget, including funding levels of the Advanced Technology Program and the Manufacturing Extension Partnership, and feedback sessions will be closed.

DATES: The meeting will convene June 5, 2001 at 8:30 a.m. and will adjourn at 11:40 a.m. on June 6, 2001.

ADDRESSES: The meeting will be held in the Employees Lounge, Administration Building, at NIST, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Janet R. Russell, Administrative Coordinator, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, Gaithersburg, MD 20899–1004, telephone number (301) 975–2107.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 12, 2001, that portions of the meeting of the Visiting Committee on Advanced Technology which involve discussion of proposed funding of the Advanced Technology Program and the Manufacturing Extension Partnership Program may be closed in accordance with 5 U.S.C. 552b(c)(9)(B), because those portions of the meetings will divulge matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency actions; and that portions of meetings which involve discussion of the staffing issues of management and other positions at NIST may be closed in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Dated: May 14, 2001.

Karen H. Brown,

Acting Director.

[FR Doc. 01–12688 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051001B]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (1316); Issuance of permits 1298 and 1266.

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a scientific research permit from Dr. Jeff Schmid, of The Conservancy of Southwest Florida; NMFS has issued permit 1298 to Ms. Melissa Salmon, of Riverbanks Zoological Park and permit 1266 to John Glass, of REMSA, Inc.

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on June 20, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (phone: 301-713-1401, fax: 301-713-0376, e-mail: Terri.Jordan@noaa.gov)

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under Section 10(a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Sea turtles

Threatened and endangered Green turtle (*Chelonia mydas*)

Endangered Kemp's ridley turtle (*Lepidochelys kempii*)

Endangered Leatherback turtle (*Dermochelys coriacea*)

Threatened Loggerhead turtle (*Caretta caretta*)

Fish

Endangered Shortnose Sturgeon (*Acipenser brevirostrum*)

New Applications Received

Application 1316

The applicant proposes to characterize the essential habitat associations of subadult Kemp's ridley turtles in the nearshore waters of the upper Ten Thousand Islands. The objectives are: (1) to monitor the movements of Kemp's ridley turtles via radio and sonic telemetry and to

quantify their habitat utilization from the geographical position data, (2) to produce a geographic information system (GIS) database of benthic habitats and subsequently map the habitat types within the study area, and (3) to test for habitat preferences of Kemp's ridley turtles in this region by comparing the amount of time a turtle spends in a given habitat relative to the availability of all other habitat types.

Permits and Modified Permits Issued

Permit #1298

Notice was published on March 5, 2001 (66 FR 13305), that Ms. Melissa Salmon, of Riverbanks Zoological Park applied for a enhancement permit (1298). The applicant has requested a 5–year permit to continue to maintain eleven adult shortnose sturgeon received from the South Carolina Department of Natural Resources in 1996 for education purposes. NMFS believes that captive maintenance of endangered shortnose sturgeon for enhancement purposes is to the benefit of the species as a whole. The source for the captive display are shortnose sturgeon maintained in hatchery settings that have been deemed non-releasable by NMFS. Because these cultured sturgeon have been deemed non-releasable at this time by NMFS, alternatives to sacrifice were needed. The recovery team for shortnose sturgeon felt that these cultured fish provided an excellent opportunity to educate the public and increase awareness of the species and its plight. These fish are used in research activities and, as recommended by the recovery team, in enhancement activities such as public education. Permit 1298 was issued on May 4, 2001, authorizing take of listed species. Permit 1298 expires May 31, 2006.

Permit #1266

Notice was published on October 19, 2000 (65 FR 62709), that John Glass, of REMSA, Inc. applied for a research/enhancement permit (1266). The applicant requested a 5–year permit to take leatherback, green, loggerhead, Kemp's ridley and green turtles from the Atlantic Ocean and Gulf of Mexico in conjunction with US Army Corps of Engineer Dredging projects for scientific research and enhancement purposes. Permit 1266 was issued on May 8, 2001, authorizing take of listed species. Permit 1266 expires April 30, 2006.

Dated: May 15, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12747 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051401C]

Marine Mammals; Scientific Research and Enhancement Permit (PHF# 116-1477)

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that SeaWorld of Texas, 10500 Sea World Drive, San Antonio, Texas, 78251, has applied in due form for an amendment to Permit No. 116-1477 to take Hawaiian monk seals (*Monachus schauinslandi*) for purposes of scientific research.

DATES: Written comments must be received on or before June 20, 2001.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s): (see **SUPPLEMENTARY INFORMATION**).

Written comments or requests for a public hearing on this request, should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit amendment is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222.23).

Permit No. 116-1477 authorizes the permit holder to permanently transfer ten (10) captive, unreleasable female Hawaiian monk seals from the National Marine Fisheries Service's Kewalo Research Facility to SeaWorld of Texas for research and enhancement purposes. The primary objective of the Permit is to make the seals available for scientific research on an opportunistic basis in order to benefit the wild population of Hawaiian monk seals. As provided for in the Permit, the permit holder requests authorization to conduct research studies on the ten captive female Hawaiian monk seals now permanently held at SeaWorld of Texas. The research study involves systematic feeding of certain prey to the captive seals and subsequent comparison of fatty acid composition of blubber samples with the fatty acid composition of the food consumed. The goal is to determine whether the assessment of fatty acid signatures in blubber samples of free-ranging Hawaiian monk seals may be an appropriate and reliable method for qualitative and quantitative assessment of their diet. This study is aimed at reducing or eliminating adverse interactions between current and anticipated fishing operations with free-ranging Hawaiian monk seals.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this amendment application to the Marine Mammal Commission and its Committee of Scientific Advisors. The application and related documents are available for review in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018;

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702–2432; phone (727) 570–5301; fax (727) 570–5320; and

Protected Species Program Manager, Pacific Islands Area Office, 1601 Kapiolani Blvd., Room 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941.

Dated: May 15, 2001.

E. Ruth Johnson,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–12746 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050901E]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet June 10-15, 2001. The Council meeting will begin on Tuesday, June 12, at 8 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. until 8:30 a.m. on Tuesday, June 12 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Park Plaza Hotel, 1177 Airport Boulevard, Burlingame, CA 94010; telephone: 650–342–9200.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503)326–6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order. All items listed are subject to potential Council action.

A. Call to Order

1. Opening Remarks, Introductions,
2. Roll Call
3. Executive Director's Report
4. Approve Agenda
5. Approve March 2001 and April 2001 Minutes

B. Salmon Management

1. NMFS Report
2. Sequence of Events and Status of Fisheries

C. Groundfish Management

1. NMFS Report
2. Sablefish Three-Tier Program Qualification with Setnet Landings
3. Marine Recreational Fisheries Statistics Survey Update
4. Status of the 2001 Stock Assessment Review Panel Meetings
5. Stock Assessment Priorities for 2002
6. Experimental Fishing Permit (EFP) Applications
7. Limited Entry Fixed Gear Sablefish Permit Stacking and Season for 2001 and beyond
8. Incidental Pacific Halibut Harvest Restrictions for the Primary, Limited Entry Longline Sablefish Fishery North of Point Chehalis, Washington
9. Strategic Plan Implementation
10. Rebuilding Plans for Canary Rockfish, Cowcod, Pacific Ocean Perch, Bocaccio, Lingcod, Widow Rockfish, and Darkblotched Rockfish
11. Preliminary Harvest Levels for 2002
12. American Fisheries Act Management Measures
13. Status of Fisheries and Inseason Adjustments
14. Full Retention Measures

D. Habitat Issues

Essential Fish Habitat Issues

E. Marine Reserves

1. Review of West Coast Marine Reserves Efforts
2. Marine Reserves in the Channel Island National Marine Sanctuary

F. Highly Migratory Species Management

1. International Highly Migratory Species (HMS) Discussions and Actions
2. Public Review Draft of the HMS Fishery Management Plan (FMP)
3. Draft FMP Public Hearing Schedule

G. Coastal Pelagic Species Management

1. Exempted Fishing Permit Applications
2. Pacific Mackerel Harvest Guideline and Other Specifications for 2002
3. Market Squid Maximum Sustainable Yield (MSY) Methodology Review Workshop

H. Administrative and Other Matters

1. Report of the Budget Committee
2. Status of Legislation
3. Appointments to Advisory Bodies or Other Council Positions
4. Council Staff Work Load Priorities
5. September 2001 Council Meeting Draft Agenda

SCHEDULE OF ANCILLARY MEETINGS

SUNDAY, JUNE 10, 2001

Scientific and Statistical Committee
Highly Migratory Species Subcommittee 10 a.m.

MONDAY, JUNE 11, 2001

Council Secretariate 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Scientific and Statistical Committee 8 a.m.
Budget Committee 10 a.m.
Habitat Steering Group 1 p.m.
Highly Migratory Species Advisory Subpanel 1 p.m.

TUESDAY, JUNE 12, 2001

Council Secretariate 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Scientific and Statistical Committee 8 a.m.
Habitat Steering Group 8 a.m.-noon
Highly Migratory Species Advisory Subpanel 8 a.m.-noon
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team: As necessary
Enforcement Consultants: Immediately following Council Session
Groundfish FMP EIS Scoping Meeting 7 p.m.

WEDNESDAY, JUNE 13, 2001

Council Secretariate 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel: As necessary
Groundfish Management Team: As necessary
Enforcement Consultants: As necessary

THURSDAY, JUNE 14, 2001

Council Secretariate 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Management Team: As necessary
Enforcement Consultants: As necessary

FRIDAY, JUNE 15, 2001

Council Secretariate 7 a.m.
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.

Washington State Delegation 7 a.m.

Enforcement Consultants: As necessary

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–-6352 at least 5 days prior to the meeting date.

Dated: May 11, 2001.

Richard W. Surdi,

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

[FR Doc. 01–12748 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

[Docket No.: 010514126–1126–01]

RIN 0692–ZA00

Under Secretary/Office of Technology Policy Grants Program

AGENCY: Technology Administration, Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Technology Policy, Technology Administration, U.S. Department of Commerce invites proposals from eligible organizations for funding projects under the Under Secretary/Office of Technology Policy (US/OTP) Grants Program. Under this program, the Under Secretary/Office of Technology Policy will provide grants and cooperative agreements in the following areas: Identifying Government Policies That Affect Innovation, Supporting State and Local Efforts to Harness Technology for Economic Development, and Facilitating Technology Development and Transfer.

DATES: The US/OTP Grants Program proposals must be received no later than the close of business September 30, 2001. Proposals received after June 30, 2001 will continue to be processed and considered for funding but may be funded in the next fiscal year, subject to the availability of funds.

ADDRESSES: Applicants are requested to submit one signed original and two copies of the proposal, along with a Grant Application, (Standard Form 424 REV. 7/97 and other required forms), clearly marked to identify the field of research, to: Jon Paugh; Office of Technology Policy; Technology Competitiveness Staff, Room 4418; United States Department of Commerce; 14th & Constitution Ave.; Washington, DC 20239; Tel: (202) 482–2100; E-mail: *otptech@ta.doc.gov*

FOR FURTHER INFORMATION CONTACT: Karen Laney-Cummings; Office of Technology Policy; Technology Competitiveness Staff, Room 4418; United States Department of Commerce; 14th & Constitution Ave.; Washington, DC 20239; Tel: (202) 482–2100; E-mail: *otptech@ta.doc.gov*

SUPPLEMENTARY INFORMATION:

Authority: The authority for the US/OTP Grants Program is as follows: As authorized by 15 U.S.C. 3704 (b) and (c) and 15 U.S.C. 3706, the Office of Technology Policy conducts directly, and supports through grants and cooperative agreements, a program of policy analysis and development relating to technological innovation and its contribution to economic growth and industrial competitiveness.

Background: The responsibilities of the Office of Technology Policy (OTP) are defined by the Stevenson-Wydler Technology Innovation Act, 15 U.S.C. 3701 et seq., and related legislation, detailed below. The Stevenson-Wydler Technology Innovation Act requires the Assistant Secretary for Technology Policy, who serves as Director of OTP, to support the Under Secretary for Technology in carrying out the Act's policy responsibilities by:

- Conducting technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;
- Identifying technological needs, problems, and opportunities within and across industrial sectors that, if addressed, could make a significant contribution to the economy of the United States;
- Supporting studies and policy experiments, in cooperation with other Federal agencies, to determine the effectiveness of measures with the potential of advancing U.S. technological innovation;
- Encouraging and assisting joint initiatives by State or local governments, regional organizations, private businesses, institutions or higher education, nonprofit organizations, or Federal laboratories to encourage technology transfer, to stimulate innovation, and to promote an appropriate climate for investment in technology-related industries;
- Serving as a convener for discussions among U.S. companies on topics of interest to industry and labor, including discussions regarding manufacturing or emerging technologies.

In addition, the Stevenson-Wydler Technology Innovation Act, the Federal Technology Transfer Act, 15 U.S.C. 3710, the Bayh-Dole Act, 15 U.S.C. 200 et seq., and implementing regulations found at 37 CFR Parts 401, 404, and 501 give OTP specific responsibilities to encourage cooperation between government, universities and industry in the development and diffusion of new technologies. OTP is to:

- Provide services to Federal agencies in support of the commercialization of technology developed at Federal laboratories
- Monitor agency use of cooperative agreements and prepare regular reports on agency use of those mechanisms
- Develop policies and issue regulations governing ownership and licensing of patents arising from Federally-funded research at universities and in small businesses
- Issue regulations governing licensing of Federally owned inventions by the federal agencies
- Decide disputes regarding ownership of patents between Federal agencies and their employees.

Program Description and Objectives: Specific examples of policy-related activities that OTP may wish to support through grants or cooperative agreements are presented here in terms of OTP's areas of policy activity:

I. Identifying Government Policies That Affect Innovation—OTP is interested in identifying and analyzing government policy areas with a marked effect on private sector innovation. To this end, OTP is interested in proposals for projects related to emerging policy issues that affect the business environment for innovation—for example, regulatory barriers, tax and accounting rules, legal issues such as intellectual property rights or liability, investment incentives, capital availability, ethical issues, or workforce-related issues. Preferences will be given to issues that impact multiple business sectors or that may have spillover effects for the U.S. economy.

II. Supporting State and Local Efforts to Harness Technology for Economic Development—OTP is primarily interested in four subtopics. First, OTP is interested in developing a systematic body of knowledge regarding the manner in which Federal laboratories seek to support economic development in the communities in which they reside, and identifying and analyzing the most effective practices utilized by the Federal laboratories for this purpose. The object of this effort is to improve the contribution that Federal laboratories make to local economies.

Second, OTP is also interested in improving the availability of web-based sources of data pertaining to technology-based economic growth, particularly at the sub-state and multi-state levels. Proposals are invited for projects that will assemble and analyze data from a variety of sources about factors that affect high technology industry growth. Such a database should allow users to customize data sets from multiple sources.

Third, OTP is interested in data development and dissemination focusing on public programs' and private entities' efforts to provide capital to new and young technology firms to generate local economic growth ant technological innovation.

Fourth, OTP is also interested in data development and dissemination efforts relating to the comparison of outcomes and determination of best practices in business incubators. Such efforts might be based on quantitative data and case studies where appropriate. OTP is particularly interested in expanding understanding of those incubators that are affiliated with universities or Federal labs.

Specific outcomes for any project may include, but not be limited to, reference guides for analysts, policy makers and program practitioners, the identification of best practices, databases to improve knowledge and program performances, and further progress toward measurement and performance criteria.

III. Facilitating Technology Development and Transfer—OTP is interested in developing a better understanding of the barriers to research collaboration and technology licensing between the private sector and the Federal laboratories. It is especially interested in studies that identify and analyze in detail specific areas where these entities' views and practices diverge in connection with such undertakings. It is also interested in identifying the kinds of information and process that can best enable private sector parties to identify Federal laboratories with the competencies they are seeking. In addition, OTP is interested in developing a more detailed knowledge base concerning the issues arising from university technology transfer with industry under the Bayh-Dole Act, 15 U.S.C. 200 *et seq.*

OTP is also interested in proposals that may illuminate questions of measurements relating to the technology policy process. For example, while R&D investment and patent grants are useful for measuring technology creation activity, equally effective measures are needed for better gauging the effective use of technology by industry. Another important area relates to measuring the performance of the many companies that rely increasingly on investment and management of intangible assets such as human intelligence, knowledge, ideas, skills, brand recognition, and organizational capabilities. Often referred to as intellectual capital (IC), these and other intangible assets are neither precisely defined nor systematically measured.

Eligibility: Under 15 U.S.C. Sec. 3706, any person is eligible for this program. When applicable, applicants should designate themselves on the SF–424 as institutions of higher education; non-profit organizations; commercial organizations; international organizations; or state, local, and Indian tribal governments.

In addition, US/OTP will accept applications from authorized Federal organizations and compete them with applications from non-Federal applicants. Before a Federal applicant may be considered for funding, it must demonstrate that it has statutory authority to receive funds from another Federal organization in excess of its appropriation. As this announcement is not proposing to procure goods or services for US/OTP from applicants, the Economy Act, 31 U.S.C. Sec. 1535, is not an appropriate legal basis.

Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this Notice. Proposals selected for funding from Federal agencies will be funded through an interagency or intra-agency transfer agreement, as applicable.

Funding Availability: In fiscal year 2001, the US/OTP Grants Program anticipates funding of approximately $400,000, including new awards and continuing projects. Most grants and cooperative agreements are expected to be in the $20,000 to $50,000 per year range.

Proposal Review Process and Evaluation Criteria: First, all proposals will be reviewed by OTP staff to determine whether the proposal supports one of OTP's areas of policy responsibility, as described in this Notice. Second, proposals meeting that threshold test will be reviewed and ranked by at least three independent reviewers knowledgeable about the relevant subject area that will be appointed by the OTP Staff Directors.

The reviewers will use the following evaluation criteria:

1. Importance of the proposed research—Does it have the potential of answering or providing new insight into pressing questions in areas of OTP's policy responsibilities? (60%)

2. Expertise and Experience—Does the proposal provide evidence of the applicant's expertise in the relevant subject area? Does the proposal provide evidence that the quality of the research previously carried out by the applicant is such that there is a high probability that the proposed research will be successfully carried out? (20%)

3. Budget—Is the proposed budget reasonable, and is adequate rationale provided for costs? (10%)

4. Implementation Plan—Does the proposal include a reasonable plan for achieving the project goals, and a realistic schedule for the performance of the work, with defined milestones? (10%)

Reviews will be conducted on a bi-monthly basis during the third quarter and fourth quarters of the fiscal year, which ends September 30, 2001.

Third, the results of the reviews will be provided to the Selecting Official, the Director of the Office of Technology Competitiveness, OTP, who will make funding recommendations, taking into account the following:

- The evaluation and ranking by the reviewers,
- The evaluation criteria listed above,
- The degree to which the slate of recommended applications, taken as a whole, satisfies the program's stated purposes, and
- The availability of funds.

Any selection recommendation outside the ranking of the reviewers shall be justified in writing by the Selecting Official on the basis of one or more of the above selection factors.

Fourth, the final approval of selected applications and the award of financial assistance will be made by the Technology Administration's National Institute of Standards and Technology (NIST) Grants Officer, who will handle administration of these awards. The Grants Officer's approval will be based on compliance with application requirements as published in this Notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants

appear to be responsible. The decision of the Grants Officer is final.

Prior to award, applicants may be asked to modify objectives, work plans, or budgets, and provide supplemental information required by the agency.

Applicants should allow up to 90 days processing time.

Award Period: Proposals will generally be considered for research projects for one year. If a proposal for a multi-year project is submitted and approved, funding will initially be provided for only the first year of the program. If an application is selected for funding. DoC has no obligation to provide any additional funding in connection with that award. Funding for each subsequent year of a multi-year proposal will be contingent on satisfactory progress, continuing relevance to OTP's mission, and the available of funds.

Matching Requirements: Pursuant to 15 U.S.C. 3706, the Office of Technology Policy Grants Program may not fund more than 75 percent of any project performed under a grant or cooperative agreement. Therefore, at least 25 percent matching funds are required for all financial assistance awarded under this program.

Application Kit: An application kit, containing all required application forms and certifications is available by contacting: Claudeen Julia; Office of Technology Policy; Technology Competitiveness Staff, Room 4418; United States Department of Commerce; 14th & Constitution Ave.; Washington, DC 20239; Tel: (202) 482–2100; E-mail: *otptech@doc.gov*

Additional Information

Funding Availability: Awards are contingent on the availability of funds.

Catalog of Federal Domestic Assistance Name and Number: 11.615, Office of Technology Policy Grants Program.

For Further Information Contact: All grants administration questions concerning these programs should be directed to the NIST Grants Office at (301) 975–5718.

Application Kit: The application kit includes the following:

SF 424 (Rev 7/97)—APPLICATION FOR FEDERAL ASSISTANCE

SF 424A (Rev 7/97)—BUDGET INFORMATION—Non-Construction Programs, including a detailed budget narrative explaining the details of each budget category and the basis for the cost. If indirect costs are included in the budget, a copy of the applicant's negotiated indirect cost rate must be submitted, if available.

SF 424B (Rev 7/97—ASSURANCE—Non-Construction Programs

CD 511 (7/91)—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS; DRUG-FREE WORKPLACE REQUIREMENTS AND LOBBYING

CD 512 (7/91)—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS AND LOBBYING

SF–LLL—DISCLOSURE OF LOBBYING ACTIVITIES

CD–346—APPLICANT FOR FUNDING ASSISTANCE

Paperwork Reduction Act: The Standard Forms 424, 424A, 424B and SR–LLL in the application kit are subject to the requirements of the Paperwork Reduction Act and have been approved by the Office of Management and Budget (OMB) under Control No. 0348–0043, 0348–0044, 0348–0040, and 0348–0046. CD–346 is approved under OMB Control No. 0605–0001.

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, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Research Projects Involving Human Subjects, Human Tissue, Data or Recordings Involving Human Subjects: Any proposal that includes research involving human subjects, human tissue, data or recording involving human subjects must meet the requirements of the Common Rule for the Protection of Human Subjects, codified for the Department of Commerce (DoC) at 15 CFR part 27. In addition, any proposal that includes research on these topics must be in compliance with any statutory requirements imposed upon NIH and other federal agencies regarding these topics, all regulatory policies and guidance adopted by NIH, FDA, and other federal agencies on these topics, and all Presidential statements of policy on these topics.

The NIH recently released their guidelines on the use of human pluripotent stem cells derived from human embryos in research. The DoC is currently reviewing these guidelines. Until DoC has had the opportunity to fully assess the new guidelines and develop appropriate implementing procedures, DoC will not consider proposals that involve human pluripotent stem cells derived from human embryos for funding.

On December 3, 2000, the U.S. Department of Health and Human Services (DHHS) introduced a new Federalwide Assurance of Protection of Human Subjects (FWA). The FWA covers all of an institution's Federally-supported human subjects research, and eliminates the need for other types of Assurance documents. In anticipation of the new Assurance, the Office for Human Research Protections (OHRP) has suspended processing of multiple project assurance (MPA) renewals. All existing MPAs will remain in force until further notice. OHRP will continue to accept new single project assurances (SPAs) until approximately March 1, 2001. For information about FWAs, please see the OHRP website at http://ohrp.osophs.dhhs.gov/whatsnew.htm.

In accordance with the DHHS change, DoC will continue to accept the submission of human subjects protocols that have been approved by Institutional Review Boards (IRBs) possessing a current, valid MPA from DHHS. DoC also will accept the submission of human subjects protocols that have been approved by IRBs possessing a current, valid FWA from DHHS. DoC will not issue an SPA for any IRB reviewing any human subjects protocol proposed to OTP.

Research Projects Involving Vertebrate Animals: Any proposal that includes research involving vertebrate animals must be in compliance with the National Research Council's ''Guide for the Care and Use of Laboratory Animals'' which can be obtained from National Academy Press, 2101 Constitution Avenue, NW., Washington, DC 20055. In addition, such proposals must meet the requirements of the Animal Welfare Act (7 U.S.C. 2131 et seq.), 9 CFR Parts 1, 2, and 3, and if appropriate, 21 CFR Part 58. These regulations do not apply to proposed research using pre-existing images of animals or to research plans that do not include live animals that are being cared for, euthanased, or used by the project participants to accomplish research goals, teaching, or testing. These regulations also do not apply to obtaining animal materials from commercial processors of animal products or to animal cell lines or tissues from tissue banks.

Type of Funding Instrument: The funding instrument will be a grant or cooperative agreement, depending on the nature of the proposed work. A grant will be used unless OTP is ''substantially involved'' in the project, in which case a cooperative agreement

will be used. A common example of substantial involvement is collaboration between OTP personnel and recipient personnel. Further examples are listed in Section 5.03.d of Department of Commerce Administrative Order 203–26, which can be found at http://wwhttp://www.osec.doc.gov/bmi/daos/203–26.htm. OTP will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for contractual arrangements for services and products for delivery to OTP is not available under this announcement.

Additional Requirements

Primary Application Certifications: All primary applicant institutions must submit a completed form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations must be provided:

1. *Nonprocurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurment Debarment and Suspension'' and the related section of the certification form prescribed above applies;

2. *Drug-Free Workplace.* Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, Subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. *Anti-Lobbying.* Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. *Anti-Lobbying Disclosure.* Any applicant institution that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

5. *Lower-Tier Certifications.* Recipients shall require applicant/bidder institutions for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

Name Check Reviews: All for-profit and non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity. Form CD–346 must be completed for all personnel with key programmatic or fiduciary responsibilities.

Preaward Activities: Applicants (or their institutions) who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of DoC to cover pre-award costs.

No Obligation for Future Funding: If an application is accepted for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC.

Past Performance: Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

False Statements: A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Delinquent Federal Debts: No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full.

2. A negotiated repayment schedule is established and at least one payment is received, or

3. Other arrangements satisfactory to DoC are made.

Indirect costs: Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the DoC will reimburse the Recipient shall be the lesser of:

(a) the Federal Share of the total allocable indirect costs of the award based on the negotiated rate with the cognizant Federal agency as established by audit or negotiation; or

(b) the line item amount for the Federal share of indirect costs contained in the approved budget of the award.

Purchase of American-Made Equipment and Products: Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

Federal Policies and Procedures: Recipients and subrecipients under each of the above grant programs shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards, including 15 CFR part 14 and 15 CFR part 24, as applicable.

The OTP Grants Program does not directly affect any state or local government.

Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Executive Order Statement: This funding notice was determined to be ''not significant'' for purposes of Executive Order 12866.

Dated: May 15, 2001.

Karen H. Brown,

Acting Under Secretary for Technology.

[FR Doc. 01–12687 Filed 5–18–01; 8:45 am]

BILLING CODE 3510–18–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Revision of Currently Approved Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program

helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. This form is available in alternate formats. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9:00 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Currently, the Corporation is soliciting comments concerning the revision of its AmeriCorps*VISTA Project Progress Report (OMB Control Number 3045–0043, with an expiration date of 07/31/2000). Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by July 20, 2001.

ADDRESSES: Send comments to the Corporation for National and Community Service, AmeriCorps*VISTA, Attn: Robert L. Bush, 1201 New York Avenue, NW., Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: Robert L. Bush, (202) 606–5000, ext. 338, or e-mail to *rbush@cns.gov*.

SUPPLEMENTARY INFORMATION:

Comment Request

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Background:

The Corporation proposes to distribute the AmeriCorps*VISTA Project Progress Report form to AmeriCorps*VISTA sponsoring organizations upon project approval. Sponsoring organizations are required to submit a completed form to the Corporation on a quarterly basis. Corporation personnel will use the form to track project accomplishments, problems, resources generated, project sustainability, and support provided to AmeriCorps*VISTA members. Information from the form is also used to fulfill requests for substantive project information. The purpose of the form is to evaluate a sponsor's progress towards meeting project goals and objectives, assess risk, and document qualitative and quantitative information about project accomplishments for a given reporting period.

Current Action

The Corporation proposes to revise the AmeriCorps*VISTA Project Progress Report by deleting unused information from the existing version of the form, incorporating plain language, and collecting the following project information:

- Activities that contribute to building permanent infrastructure.
- Outcomes that demonstrate helping people out of poverty.
- The Corporation also proposes to revise the AmeriCorps*VISTA Project Progress Report by requesting the ''e-mail address'' of project supervisors to provide a more inexpensive and faster way to communicate and share information.

Further, the Corporation proposes to revise the AmeriCorps*VISTA Project Progress Report by asking sponsoring organizations if they have technical assistance needs.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*VISTA Project Progress Report.

OMB Number: 3045–0043.

Agency Number: None.

Affected Public: AmeriCorps*VISTA sponsoring organizations, site supervisors, and members.

Total Respondents: 1,200.

Frequency: Quarterly, with exceptions.

Average Time Per Response: 3 hours.

Estimated Total Burden Hours: 3,600 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

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

Dated: May 14, 2001.

Matt B. Dunne,

*Director, AmeriCorps*VISTA.*

[FR Doc. 01–12675 Filed 5–18–01; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–414–000]

Black Marlin Pipeline Co.; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Black Marlin Pipeline Company (Black Marlin) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to comply with the Commission's Order issued on October 27, 2000 in Docket No. RM96–1–014.

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 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12659 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1183–000 and ER01–1183–001]

Celerity Energy of New Mexico, LLC; Notice of Issuance of Order

May 15, 2001.

Celerity Energy of New Mexico, LLC (Celerity) submitted for filing a rate schedule under which Celerity will engage in wholesale electric power and energy transactions at market-based rates. Celerity also requested waiver of various Commission regulations. In particular, Celerity requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Celerity.

On May 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests from blanket approval under Part 34, subject to the following.

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Celerity should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Celerity is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect to any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Celerity's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). 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. 01–12644 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–345–001]

Columbia Gas Transmission Corp.; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of May 1, 2001:

Substitute Second Revised Sheet 307A
Third Revised Sheet No. 330
Substitute Tenth Revised Sheet No. 456

On March 30, 2001, Columbia filed tariff sheets in Docket No. RP01–345–000 to conform its Tariff to Version 1.4 of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB). The Commission directed that pipelines implement these standards by filing revised tariff sheets not less than 30 days prior to the May 1, 2001 implementation date required by Order No. 587–M. By order dated April 26, 2001, the Commission accepted the filed tariff sheets with several exceptions and required Columbia to revise its Tariff and incorporate the changes within 15 days of the date of the Order. See Standards for Business Practices of Interstate Natural Gas Pipelines, 95 FERC 61,127 (April 26, 2001).

Columbia's filed changes are as follows:

(1) Standard 0.3.1 is incorporated by reference on Substitute Tenth Revised Sheet No. 456.

(2) Standards 1.3.51, 5.3.34, 5.3.35, and 5.3.36 are deleted from Substitute Tenth Revised Sheet No. 456 since these standards are incorporated verbatim on (i) Substitute Second Revised Sheet No. 307A filed herein; and (ii) Third Revised Sheet No. 371, Second Revised Sheet No. 380 and Second Revised Sheet No. 428 previously accepted by the Commission in its April 26 Order.

(3) Standards 3.3.17 and 3.3.18 are incorporated verbatim on Third Revised Sheet No. 330 filed herein.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12657 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–342–001]

Columbia Gulf Transmission Company; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, a proposed effective date of May 1, 2001:

Substitute Second Revised Sheet No. 162A
Fourth Revised Sheet No. 176
Substitute Sixth Revised Sheet No. 286

On March 30, 2001, Columbia Gulf filed tariff sheets in Docket No. RP01–342–000 to conform its Tariff to Version

1.4 of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB). The Commission directed that pipelines implement these standards by filing revised tariff sheets not less than 30 days prior to the May 1, 2001 implementation date required by Order No. 587–M. By order dated April 26, 2001, the Commission accepted the filed tariff sheets with several exceptions and required Columbia Gulf to revise its Tariff and incorporate the changes within 15 days of the date of the order. See Standards for Business Practices of Interstate Natural Gas Pipelines, 95 FERC 61,127 (April 26, 2001) April 26 Order).

Columbia Gulf's states that the filed changes are as follows:

(1) Standard 0.3.1 is incorporated by reference on Substitute Sixth Revised Sheet No. 286.

(2) Standards 1.3.51; 5.3.34; 5.3.35; and 5.3.36 are deleted from Substitute Sixth Revised Sheet No. 286 since these standards are incorporated verbatim on (i) Substitute Second Revised Sheet 162A filed herein; and (ii) Third Revised Sheet No. 205, Third Revised Sheet No. 209 and Second Revised Sheet No. 251 previously accepted by the Commission in its April 26 Order.

(3) Standards 3.3.17 and 3.3.18 are incorporated verbatim on Fourth Revised Sheet No. 176 filed herein.

Columbia Gulf states that copies have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims/htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12655 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–255–001]

Cove Point LNG Limited Partnership; Notice of Compliance Filing

May 15, 2001.

Take notice that on April 19, 2001, Cove Point LNG Limited Partnership (Cove Point) tendered for filing additional workpapers to support its March 1, 2001 filing in this docket. Cove Point submitted its March 1, 2001 filing pursuant to Section 1.37 of the General Terms and Conditions of its FERC Gas Tariff to revise the retainage percentages for its peaking services and transportation services, to be effective April 1, 2001. Cove Point asserts that the purpose of this filing is to comply with the Commission's March 28 order, 94 FERC ¶ 61,358 (2001).

Cove Point further states that copies of this filing is being served to its affected customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 22, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12652 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–331–001]

Cove Point LNG Limited Partnership; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Cove Point LNG Limited Partnership (Cove Point) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute First Revised Sheet No. 153, with an effective date of May 1, 2001.

Cove Point states that the filing is being made to comply with the Commission's Order on Filings in Compliance with Order No. 587–M, 95 FERC 61,127 (2001).

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 protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12654 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–360–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 8, 2001, Dominion Transmission Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1,

the following tariff sheet, with an effective date of May 1, 2001:

Substitute First Revised Sheet No. 1173

DTI states that the purpose of this filing is to comply with the Commission's April 26, 2001 *Order on Filings in Compliance with Order No. 587–M,* by modifying its previously filed tariff sheet to incorporate Version 1.4 GISB standard 3.3.17 as part of its tariff.

DTI states that copies of its letter of transmittal and enclosures are being mailed to its customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc 01–12658 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1418–000]

Effingham County Power, LLC; Notice of Issuance of Order

May 15, 2001.

Effingham County Power, LLC (Effingham) submitted for filing a rate schedule under which Effingham will engage in wholesale electric power and energy transactions at market-based rates. Effingham also requested waiver of various Commission regulations. In particular, Effingham requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Effingham.

On May 4, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Effingham should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Effingham is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Effingham's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). 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. 01–12647 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–343–001]

Granite State Gas Transmission; Notice of Compliance Filing

May 15, 2001.

Take notice that on May 9, 2001, Granite State Gas Transmission (Granite State) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of May 1, 2001:

Fourth Revised Sheet No. 202

On March 30, 2001, Granite State filed tariff sheets in Docket No. RP01–343–000 to conform its Tariff to Version 1.4 of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB). The Commission directed that pipelines implement these standards by filing revised tariff sheets not less than 30 days prior to the May 1, 2001 implementation date required by Order No. 587–M. By order dated April 26, 2001, the Commission accepted the filed tariff sheets with one exception and required Granite State to revise its Tariff and incorporate the changes within 15 days of the date of the Order. See Standards for Business Practices of Interstate Natural Gas Pipelines, 95 FERC 61,127 (April 26, 2001). Specifically, Granite State files herein Fourth Revised Sheet No. 202 to correct the pagination of Sheet No. 202 as directed by the Commission in its April 26 Order.

Granite State states that copies of its filing have been mailed to all firm customers, interruptible customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the

web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–12656 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1468–002]

Great Bay Power Corporation; Notice of Filing

May 15, 2001.

Take notice that on May 3, 2001, Great Bay Power corporation tendered for filing an amendment to its April 17, 2001 filing with revised service agreements for Chicopee Municipal Light Plant (Chicopee) and South Hadley Electric Light Department (South Hadley) under Great Bay's revised Market-Based Rate Power Sales Tariff (FERC Electric Tariff No. 2, Second Revised Volume No. 2). The revised service agreements are in conformity with Order No. 614, FERC Stats. & Regs. 31,096 (2000).

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 24, 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 of the Commission's web site at http://wwww.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–12642 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–78–000]

LG&E Energy Marketing, Inc. Complainant, v. Southern Company Services, Inc. Georgia Transmission Corporation, Respondents; Notice of Complaint

May 15, 2001.

Take notice that on May 14, 2001, LG&E Energy Marketing, Inc. (LEM) tendered for filing a complaint in which LEM petitions the Commission to issue an order directing that the transmission service request of Oglethorpe Power Corporation for power generated by the LG&E Power Monroe LLC generating plant has first rights to the East Social Circle to Winder 230 kV transmission line.

Any person desiring to be heard or to protest this 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 must be filed on or before May 22, 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 proceeding. 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 also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before May 22, 2001. 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. 01–12643 Filed 5–18–01; 8:45am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–267–001]

Northern Border Pipeline Company; Notice of Compliance Filing

May 15, 2001.

Take notice that on April 13, 2001, Northern Border Pipeline Company (Northern Border) tendered for filing its responses to the several questions raised by the Commission in its Order issued March 30, 2001, seeking additional information on Northern Border's firm backhaul transportation service under Rate Schedule T–1B.

Northern Border states that the filing is being made in compliance with the Commission's order issued March 30, 2001 in Docket No. RP01–267–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 22, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12653 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1570–000]

Northern Iowa Windpower LLC; Notice of Issuance of Order

May 15, 2001.

Northern Iowa Windpower, LLC (Northern Iowa) submitted for filing a rate schedule under which Northern Iowa will engage in wholsesale electric

power and energy transactions at market-based rates. Northern Iowa also requested waiver of various Commission regulations. In particular, Northern Iowa requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Northern Iowa.

On May 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Northern Iowa should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Northern Iowa is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Northern Iowa's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www/ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). 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. 01–12641 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1479–000]

Northwest Regional Power, LLC; Notice of Issuance of Order

May 15, 2001.

Northwest Regional Power, LLC (Northwest) submitted for filing a rate schedule under which Northwest will engage in wholesale electric power and energy transactions at market-based rates. Northwest also requested waiver of various Commission regulations. In particular, Northwest requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Northwest.

On May 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Northwest should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Northwest is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Northwest's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). 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. 01–12645 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2071]

PacifiCorp; Notice of Authorization for Continued Project Operation

May 15, 2001.

On May 5, 1999, PacifiCorp, licensee for the Yale Project No. 2071, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2071 is located on the North Fork Lewis River in Cowlitz and Clark Counties, Washington.

The license for Project No. 2071 was issued for a period ending April 30, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 8 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is Section 15 of the FPA, notice is hereby given that an annual license for Project No. 2071 is issued to PacifiCorp for a period effective May 1,

2001, through April 30, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before May 1, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that PacifiCorp is authorized to continue operation of the Yale Project No. 2071 until such time as the Commission acts on its application for subsequent license.

David P. Boergers,

Secretary.

[FR Doc. 01–12640 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1397–000]

Perryville Energy Partners, L.L.C.; Notice of Issuance of Order

May 15, 2001.

Perryville Energy Partners, L.L.C. (Perryville) submitted for filing a rate schedule under which Perryville will engage in wholesale electric power and energy transactions at market-based rates. Perryville also requested waiver of various Commission regulations. In particular, Perryville requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Perryville.

On May 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Perryville should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Perryville is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Perryville's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). 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. 01–12646 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–071]

Reliant Energy Gas Transmission Company; Notice of Negotiated Rate

May 15, 2001.

Take notice that on May 8, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective May 8, 2001:

Original Sheet No. 8AM

REGT states that the purpose of this filing is to reflect the addition of a new negotiated rate contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbel.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12650 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1419–000]

Rowan County Power, LLC; Notice of Issuance of Order

May 15, 2001.

Rowan County Power, LLC (Rowan) submitted for filing a rate schedule under which Rowan will engage in wholesale electric power and energy transactions at market-based rates. Rowan also requested waiver of various Commission regulations. In particular, Rowan requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Rowan.

On May 4, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Rowan 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 and Practice

and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Rowan is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Rowan's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 4, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). 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. 01–12648 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL00–95–034 and EL00–98–033]

San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents, et al.; Notice of Filing

May 15, 2001.

Take notice that on May 11, 2001, the California Independent System Operator Corporation (ISO) tendered a filing in compliance with the Commission's April 26, 2001, Order in the above-captioned dockets.

The ISO states that this filing has been served on the California Public Utilities Commission, on all parties on the official service lists maintained by the Secretary for Docket Nos. EL00–95–000, *et al.,* and on all entities that have entered into Participating Generator Agreements with the ISO.

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 protest should be filed on or before May 22, 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.

David P. Boergers,

Secretary.

[FR Doc. 01–12683 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1231–001]

Southwest Power Pool, Inc.; Notice of Filing

May 15, 2001.

Take notice that on April 25, 2001, Southwest Power Pool, Inc. (SPP) tendered for filing a revised network service agreement with Southwestern Public Service Company—Bulk Power Sales (Transmission Customer). SPP requests an effective date of January 14, 2001 for this filing.

A copy of this filing was served on the Transmission customer, and on all parties on the Docket No. ER01–1231 service list.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 23, 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. 01–12636 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–426–003]

Texas Gas Transmission Corporation; Notice of Negotiated Rate

May 15, 2001.

Take notice that on May 9, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 2001:

Seventh Revised Sheet No. 1
Sheet No. 19
Original Sheet No. 40
Sheet No. 41

Texas Gas states that the purpose of this filing is to reflect the first of a new negotiated rate/non-conforming contract in its tariff as required Section 154.112(b) of the Commission's regulations and as directed by Commission Letter Order dated April 27, 2001.

Texas Gas states that copies of the revised tariff sheet is being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections

385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–12651 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–906–001, et al.]

Niagara Mohawk Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

May 14, 2001.

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket No. ER01–906–001]

Take notice that on May 8, 2001, Niagara Mohawk Power Corporation, pursuant to the Commission's Letter Order in this proceeding dated February 21, 2000 and the Commission's Order No. 614 tendered for filing acceptance of an amended and restated transmission service agreement with AES NY, L.L.C. (AES) covering certain portions of the transmission service which Niagara Mohawk formerly provided to the New York State Electric & Gas Corporation (NYSEG) under Niagara Mohawk's Rate Schedule No. 165, portions of which were assigned by NYSEG to AES. This amended and restated agreement has been designated as Niagara Mohawk's Rate Schedule No. 313.

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Great Bay Power Corporation

[Docket No. ER01–1588–001]

Take notice that on May 7, 2001, Great Bay Power Corporation tendered for filing an amendment to its March 21, 2001 filing (Docket No. ER01–1588–000) with a revised service agreement for Select Energy, Inc. under Great Bay's FERC Electric Tariff No. 3, Original Volume No. 1. The revised service agreement is in conformity with Order No. 614, FERC Stats. & Regs. 31,096 (2000).

Comment date: May 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Services, Inc.

[Docket No. ER01–2010–000]

Take notice that on May 9, 2001, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing a modified and redesignated Interconnection and Operating Agreement with Hartburg Power, LP (Hartburg), and a redesignated Generator Imbalance Agreement with Hartburg.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Ameren Services Company

[Docket No. ER01–2011–000]

Take notice that on May 9, 2001, Ameren Services Company (ASC) tendered for filing Service Agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service between ASC and Engage Energy America LLC. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to Engage Energy America LLC pursuant to Ameren's Open Access Transmission Tariff.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER01–2012–000]

Take notice that on May 9, 2001, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Dayton Power and Light Company. Wisconsin Electric respectfully requests an effective date of May 2, 2001 to allow for economic transactions.

Wisconsin Electric requests waiver of any applicable notice requirements to allow for the requested effective date as specified.

Copies of the filing have been served on Dayton Power and Light Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Monroe Power Company

[Docket No. ER01–2013–000]

Take notice that on May 9, 2001, Monroe Power Company (MPC) tendered for filing an executed Service Agreement with Dynegy Power Marketing, Inc. under the provisions of MPC's Market-Based Rates Tariff, FERC Electric Tariff No. 1. MPC is requesting an effective date of June 1, 2001 for this agreement.

Copies of the filing were served upon the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Georgia Public Service Commission.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER01–2014–000]

Take notice that on May 9, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Sempra Energy Resources, Inc.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. The Detroit Edison Company

[Docket No. ER01–2015–000]

Take notice that on May 9, 2001, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements for Wholesale Power Sales Transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff) between Detroit Edison and American Electric Power Service Corporation and between Detroit Edison and Wolverine Power Supply Cooperative.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Puget Sound Energy, Inc.

[Docket No. ER01–2016–000]

Take notice that on May 9, 2001, Puget Sound Energy, Inc., as

Transmission Provider, tendered for filing an Interconnection and Parallel Operation Agreement with Pierce Power LLC (Pierce). A copy of the filing was served upon Pierce.

Comment date: May 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Ameren Energy Marketing Company

[Docket No. ER01–2017–000]

Take notice that on May 9, 2001, Ameren Energy Marketing Company (AEM) tendered for filing a Voluntary Curtailment Agreement with Central Illinois Public Service Company d/b/a AmerenCIPS (AmerenCIPS) under which AmerenCIPS shall voluntary reduce its load upon notice from AEM requesting voluntary reduction in AmerenCIPS' load. An effective date of June 1, 2001 is requested for the Agreement.

Copies of this filing were served upon AmerenCIPS and the Illinois Commerce Commission.

Comment date: May 30, 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, N.E., Washington, D.C. 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. 01–12635 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–P]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms, and Conditions, and Prescriptions

May 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1932–004.

c. *Date filed:* April 29, 1994.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Lytle Creek Hydroelectric Project.

f. *Location:* On Lytle Creek, near the town of Devore, San Bernardino County, California. The project is located within the San Bernardino National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Walter D. Pagel, Manager of Eastern Hydro Region, Southern California Edison Company, 300 N. Lone Hill Avenue, San Dimas, CA 91773, (909) 394–8720.

i. *FERC Contact:* Mr. Jon Cofrancesco (202) 219–0079 or E-mail address at jon.cofrancesco@FERC.fed.us.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* August 31, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, terms and conditions, protests, interventions, and prescriptions 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.*

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. The existing Lytle Creek Hydroelectric Project consists of: (1) a 3-foot-high, 200-foot-long rubble masonry gravity dam; (2) a concrete intake structure with trashracks and a revolving fish screen; (3) a concrete-lined sandtrap, (4) a 4.3-mile-long flowline system comprised of 13 tunnels, a covered-concrete flume, a concrete pipeline, five siphons and 28 concrete and steel surge pipes; (5) a 750 cubic-foot concrete forebay; (6) a 1,546-foot-long, 30 to 26 inch-diameter steel penstock; (7) a powerhouse containing two generating units with a combined installed capacity of 500-kW; (8) a 904-foot-long tailrace siphon; (9) a 50-foot-long, 12-kV transmission line tap; and (10) related appurtenant facilities. The applicant proposes to continue operating the existing project.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission 60 days from the issuance date of this notice, or longer if appropriate (see item j). All reply comments must be filed with the Commission within 45 days from the date of the comment deadline.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply

with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 01–12637 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Profit Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

May 15, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2503–059.

c. *Date Filed:* April 1, 2001.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Keowee-Toxaway Hydroelectric Project.

f. *Location:* On Lake Keowee at the Cliffs at Keowee Falls Subdivision, in Oconee County, South Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006. Phone: (704) 382–5778.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 219–3076.

j. *Deadline for filing comments and motions:* June 22, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, 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.

Please include the project number (2503–059) on any comments or motions filed.

k. Description of Proposal: Duke Energy Corporation proposes to lease to Keowee Investment Group, L.L.C., 2.80 acres of project land for construction of 97 boat slips, one boat access ramp and one courtesy dock for on/off loading of watercraft. The boat slips would provide access to the reservoir for residents of the Cliffs at Keowee Falls Subdivision. Minor shoreline stabilization (619 cubic yards of rip rap) is proposed at the site and no dredging.

l. Location of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12638 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

May 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 11913–000.

c. *Date Filed:* March 20, 2001.

d. *Applicant:* Tri-Dam Power Authority.

e. *Name of Project:* Goodwin Hydroelectric Project.

f. *Location:* On the south bank of the Stanislaus River immediately downstream of Goodwin Diversion Dam. The nearby towns are Oakdale, which 12 miles west of the project area and the community of Knight's Ferry, which is 3 miles southwest of the project area, in the counties of Tuolumne and Calaveras, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Steve J. Felte, General Manager, Tri-Dam Power Authority, P.O. Box 1158, Pinecrest, CA 95364–0158 (209) 965–3996.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments recommendation, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on

each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Project: (1) An existing double arch concrete dam 460 foot-long and 101-feet high; (2) an existing 500 acre-foot reservoir with a surface area of 70 acres; (3) an enlarged 750-foot headrace; (4) a new 11-foot diameter 75-foot long penstock; (5) a two-bay semi-outdoor 40-foot wide, 40-foot long new powerhouse; (6) two vertical axis Kaplan turbine-generator units with a total installed capacity of 5MW; (7) a new overhead transmission line approximately 1,000 feet long connecting to an existing 17 kV distribution line; and (8) appurtenant facilities.

The project would have an annual generation of 20 GWh that would be sold to the Pacific Gas & Electric Company.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–12639 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

May 15, 2001.

a. *Type of Filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 2738.

c. *Date Filed:* April 2, 2001.

d. *Submitted By:* New York State Electric & Gas Corporation—current licensee.

e. *Name of Project:* Saranac River Hydroelectric Project.

f. *Location:* On the Saranac River near the City of Plattsburgh, in Clinton County, New York. The project does not occupy federal lands.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:* Carol Howland, New York State Electric & Gas Corporation, Corporate Drive, Kirkwood Industrial Park, P.O. Box 5224, Binghamton, NY 13902, cahowland@nyseg.com, (607) 762–8881.

i. *FERC Contact:* John Hannula, john.hannula@ferc.fed.us, (202) 219–0116.

j. *Effective date of current license:* April 13, 1956.

k. *Expiration date of current license:* April 12, 2006.

l. *Description of the Project:* The project consists of the following four developments:

The High Falls Development consists of the following existing facilities: (1) A 63-foot-high, 274-foot-wide gravity dam topped with 5-foot-high flashboards comprised of: (i) A spillway, (ii) a 110-foot-long eastern wingwall, and (iii) a 320-foot-long western wingwall; (2) a

2,670-acre-foot storage reservoir with a maximum pool elevation of 1,036.5 feet msl; (3) an 800-foot-long, 250-foot-wide forebay canal; (4) a 10-foot-diameter, 1,280-foot-long penstock; (5) an 11-foot by 12-foot, 3,581-foot-long tunnel; (6) a 6-foot-diameter, 150-foot-long trifurcated penstock; (7) a 30-foot-diameter, 76-foot-high surge tank; (8) a powerhouse containing three generating unit with a total installed capacity of 15.0 MW, (9) a 50-foot-long, 6.9–kV underground transmission line; and (10) other appurtenances.

The Cadyville Development consists of the following existing facilities: (1) A 50-foot-high, 237-foot-wide gravity dam with a spillway topped with 2.7-foot-high flashboards; (2) a 3,625-acre-foot storage reservoir with a maximum pool elevation of 729.3 feet msl; (3) a 58-foot-long, 20-foot-wide intake structure; (4) a 10-foot-diameter, 1,554-foot-long penstock; (5) a powerhouse containing three generating unit with a total installed capacity of 5.5 MW, (6) a 110-foot-long, 6.6-kV underground transmission line; and (7) other appurtenances.

The Mill C development consists of the following existing facilities: (1) A 43-foot-high, 202-foot-wide gravity dam with a spillway topped with 2.0-foot-high flashboards; (2) a 40.3-acre-foot storage reservoir with a maximum pool elevation of 651.9 feet msl; (3) a 37-foot-long, 16-foot-wide intake structure; (4) a 10-foot-diameter to 11.5-foot-diameter, 494-foot-long penstock; (5) a 10-foot-diameter to 11.17-foot-diameter, 84-foot-long penstock; (6) two powerhouses containing three generating unit with a total installed capacity of 6.05 MW, (7) a 700-foot-long, 6.6-kV partially underground transmission line; and (8) other appurtenances.

The Kent Falls Development consists of the following existing facilities: (1) A 59-foot-high, 172-foot-wide gravity dam with a spillway topped with 3.5-foot-high flashboards; (2) a 265-acre-foot storage reservoir with a maximum pool elevation of 584.8 feet msl; (3) a 29-foot-long, 22-foot-wide intake structure; (4) an 11-foot-diameter, 2,668-foot-long penstock; (5) a 28-foot-diameter, 32.5-foot-high surge tank; (6) a powerhouse containing three generating unit with a total installed capacity of 12.4 MW, (7) a 390-foot-long, 6.6-kV partially underground transmission line; and (8) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 12, 2004.

David P. Boergers,

Secretary.

[FR Doc. 01–12649 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

May 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1934–010.

c. *Date filed:* April 29, 1994.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Mill Creek 2/3 Hydroelectric Project.

f. *Location:* On Mill Creek, near the town of Yucaipa, San Bernardino County, California. The project is located within the San Bernardino National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Walter D. Pagel, Manager of the Eastern Hydro Region, Southern California Edison Company, 300 N. Lone Hill Avenue, San Dimas, CA 91773, (909) 394–8720.

i. *FERC Contact:* Mr. Jon Cofrancesco, (202) 219–0079 or E-mail at jon.confrancesco@FERC.fed.us

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* August 31, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, terms and conditions, prescriptions, 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.*

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. The existing Mill Creek 2/3 Hydroelectric Project consists of two independent water conveyance and generation systems on Mill Creek. The Mill 3 development is located upstream of the Mill 2 development and they share a common powerhouse. Mill 3 consists of: (1) A 7-foot-high, 80-foot-long rubble concrete diversion dam with a crest elevation of 4,982 feet; (2) an intake structure with a steel debris grid and a fish wheel (3) a 5.4-mile-long flowline; (4) a concrete sand box; (5) a 8,120-foot-long steel penstock; (6) the portion of the Mill 2/3 powerhouse that houses the four Mill 3 generating units with an installed capacity of 3,000 kW; (7) a 265-foot-long, 12-kV transmission line; and (8) other appurtenant structures. SCE proposes to continue to operate the Mill 3 development as it has historically operated.

The existing Mill 2 consists of: (1) The Mountain Home Creek diversion dam, a 3-foot-high, 42-foot-long, rubble concrete weir with a crest elevation of 3,626 feet; (2) the Mill 2 River Pick-up, a 2-foot-high, 34-foot-long, rubble concrete structure with a crest elevation of 3,593 feet; (3) a concrete intake structure with trashracks, drum-type fish screen, leaf rake and overflow pipe; (4) a 2.9-mile-long flowline system; (5) a concrete-lined sandbox, (6) a 600-cfs concrete-lined forebay; (7) an 18-inch-diameter, 1,411-foot-long steel penstock; (8) the portion of the Mill 2/3 powerhouse that houses the single 250-kW Mill 2 generating unit; and (9) other appurtenant structures. Because of damage resulting from an earthquake in July of 1992, the Mill 2 flowline has not been used since that time. SCE proposes to remove the Mill 2 flowline, diversions and generating equipment from the project.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see

Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice, or longer if appropriate (see item j). All reply comments must be filed with the Commission within 45 days from the date of the comment deadline.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 01–12660 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

May 15, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1933–010.

c. *Date filed:* April 29, 1994.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Santa Ana River 1 and 3 (formally known as Santa Ana River 1 and 2).

f. *Location:* On the Santa Ana River, near the Town of Mentone, San Bernardino County, California. The project is located within the San Bernardino National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Walter D. Pagel, Manager of Eastern Hydro Region, Southern California Edison Company, 300 N. Lone Hill Avenue, San Dimas, CA 91773, (909) 394–8720.

i. *FERC Contact:* Mr. Jon Confrancesco (202) 219–0079 or E-mail address at jon.cofrancesco@FERC.fed.us

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* August 31, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, recommendations, terms and conditions, protests, interventions and prescriptions 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.*

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. The existing SAR 1 and 3 Project consists of two independent water conveyance and generation systems on the river. SAR 1 consists of: (1) Three concrete diversion dams and intakes with a fixed trashracks on the Santa Ana River, Bear Creek, and Breakneck Creek; (2) a concrete-lined sand box; (3) a 3-mile-long flowline comprised tunnels, open flumes and steel pipes; (4) a 12 acre-foot concrete-lined forebay; (5) two 3,111-foot long steel penstocks; (6) a powerhouse containing four generating units with a combined installed capacity of 3,200-kW; (7) a concrete lined tailrace; and (8) related appurtenant facilities.

The existing SAR 3 consists of: (1) The SAR 3 River Pick-up, which consists of an earthen embankment and concrete diversion weir and intake adjacent to the SAR 1 powerhouse; (2) two diversion dams and intakes on Keller Creek and Alder Creek; (3) a 1.5-mile-long flowline system from the SAR 1 tailrace to the SAR 3 forebay; (4) the SAR 3 forebay; (5) a concrete headbreaking structure; (6) a 14,875-foot-long buried steel penstock; (7) a 2-mile-long flowline from the headbreaking structure to the Greenspot Water Delivery Forebay; (8) the Greenspot Water Delivery Forebay; (9) a 737-foot-long steel spillway pipe from the Greenspot forebay to the SAR 3 tailrace (10) a powerhouse containing one generating unit with an installed capacity of 3,100-kW; (11) a tailrace channel; and (12) related appurtenant facilities. The applicant proposes to continue operating the existing SAR 1 and SAR 3 projects.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice, or longer if appropriate (see item j). All reply comments must be filed with the Commission within 45 days from the comment deadline.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments,

recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 01–12661 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Use Alternative Procedures in Preparing a License Application

May 16, 2001.

Take notice that the following request to use alternative procedures to prepare a license application has been filed with the Commission.

a. *Type of Application:* Request to use alternative procedures to prepare a new license application.

b. *Project No.:* 11803.

c. *Date filed:* February 1, 2000.

d. *Applicant:* City of Broken Bow, Oklahoma.

e. *Name of Project:* Broken Bow Reregulating Dam Project.

f. *Location:* On the Mountain Fork River near the town of Broken Bow, McCurtain County, Oklahoma utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Stewart Noland, Crist Engineers, Inc., 1405 North Pierce Street, Suite 301, Little Rock, AR 72207, (501) 664–1552.

i. *FERC Contact:* Peter Leitzke at (202) 219–28903; e-mail peter.leitzke@ferc.fed.us.

j. *Deadline for Comments:* 30 days from the date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and 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.

All comment filings must bear the heading ''Comments on the Alternative Procedures,'' and include the project name and number (Broken Bow Reregulating Dam project No. 11803).

k. The proposed project would utilize the existing U.S. Army corps of Engineers' Broken Bow Reregulating Dam and would consist of: (1) A new 50-foot-long, 50-foot-wide, 20-foot-high powerhouse containing one or two generating units having a total installed capacity of 5,000 kilowatts; (2) a short transmission line; and (3) appurtenant facilities.

l. The City of Broken Bow has demonstrated that it has made an effort to contact all federal and state resources agencies, non-governmental organizations (NGO), and others affected by the project. The City of Broken Bow has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. The City of Broken Bow has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. The City of Broken Bow has submitted a communications protocol that is supported by the stakeholders.

The purpose of this notice is to invite any additional comments on the City of Broken Bow's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. the City of Broken Bow will complete and file a preliminary Environmental Assessment, in lieu of Exhibit E of the license application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the license application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

The City of Broken Bow has contacted federal and state resources agencies, NGOs, elected officials, environmental groups, business and economic development organizations, and members of the public regarding the Broken Bow Reregulating Dam Project. The City of Broken Bow intends to file 6-month progress reports during the alternative procedures process that leads to the filing of a license application.

David P. Boergers,

Secretary.

[FR Doc. 01–12682 Filed 5–18–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[SW–FRL–6982–4]

Renewal of Case-by-Case Extension of the Land Disposal Restrictions (LDR) Effective Date for Hazardous Wastes Generated by FMC/Astaris Idaho LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision.

SUMMARY: Today, EPA is approving the request submitted by FMC/Astaris Idaho LLC (referred to in this Notice as FMC/Astaris) for a one-year Case-by-Case (CBC) extension renewal of the May 26, 2001 effective date of the RCRA land disposal restrictions (LDRs) applicable to hazardous wastes generated at their Pocatello, Idaho facility. This action responds to the request submitted by FMC/Astaris to renew their existing CBC extension for one additional year. FMC/Astaris requested a renewal of the CBC extension due to the continued lack of available treatment capacity for five waste streams, and the need for additional time to design, construct, and begin operation of an on-site treatment plant to treat the wastes. EPA concludes that FMC/Astaris has adequately demonstrated that the request should be granted. By RCRA statute, this is the last CBC extension that can be granted for these wastes. As a result of today's action, FMC/Astaris can continue to manage the five waste streams in their on-site surface impoundments until May 26, 2002 without these wastes being subject to the LDRs.

DATES: This case-by-case extension renewal becomes effective on May 26, 2001.

ADDRESSES: The official record for this action is identified as Docket Number F–2000–FM2F–FFFFF. Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make

an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact the RCRA Hotline 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.

For more detailed information on specific aspects of this CBC extension, contact William Kline, Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 308–8440, (e-mail address: kline.bill@epamail.epa.gov).

SUPPLEMENTARY INFORMATION: The index of supporting materials evaluated by EPA in reaching our determination to approve the requested CBC extension renewal is available on the Internet. You will find this index at <http://www.epa.gov/epaoswer/hazwaste/ldr/fmc.htm>.

The information in this section is organized as follows:

I. Background of This Notice of Final Decision

A. What Is the Congressional Mandate Behind the Land Disposal Restrictions (LDR) and Extensions of the LDR Effective Date?

The Resource Conservation and Recovery Act (RCRA) establishes a program for controlling hazardous waste from the time it is generated, through its treatment and storage, until its ultimate disposal. RCRA requires EPA to develop regulations prohibiting the land disposal of certain hazardous wastes by specified dates in order to minimize threats to human health and the environment posed by land disposal of these wastes. These hazardous wastes cannot be land disposed without first meeting treatment standards established by EPA that substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized (see RCRA section 3004 (m)).

When writing RCRA, Congress recognized that adequate treatment, recovery, or disposal capacity which is protective of human health and the environment may not always be available by the applicable statutory effective dates. Therefore, EPA is authorized to grant a national capacity variance from the effective date which would otherwise apply to specific hazardous wastes, based on the earliest dates that such capacity will be available, but not to exceed two years. EPA also is authorized to grant an additional extension of the applicable LDR deadline, on a case-by-case basis, for up to one year. Such an extension is renewable once for up to an additional year.

The requirements for obtaining a CBC extension of a LDR effective date are found in 40 CFR 268.5(a). The requirements for obtaining the renewal of a CBC extension of a Land Disposal Restriction (LDR) effective date are found in 40 CFR 268.59(e).

B. What Actions Have Led to This CBC Extension Renewal?

On January 25, 1996 (61 *FR* 2338), EPA published a proposed rule (the Phase IV LDR rule) that addressed land disposal restrictions applicable to characteristic mineral processing wastes. FMC/Astaris Corporation's elemental phosphorus plant located in Pocatello, Idaho (EPA Identification Number: IDD070929518) generated wastes affected by that proposal. Realizing the lack of adequate treatment capacity for five affected wastes, FMC/Astaris submitted a petition to EPA requesting a two-year national capacity variance. FMC/Astaris later submitted supplemental comments informing EPA that they could not design a treatment unit for their wastes until the applicable treatment standards and the wastes subject to treatment were defined by EPA.

In February 1997, attorneys for the United States met with the Tribal governing body representing the Shoshone-Bannock Tribes (on whose lands the facility is located), the Fort Hall Business Council. The Fort Hall Business Council was informed during this meeting that the United States intended to file an action against FMC/Astaris for past mishandling of hazardous wastes. This filing and subsequent negotiations led to the establishment of a proposed Consent Decree in October 1998, which is described below. This enforcement action's relevance to this case-by-case extension request is also explained below.

On May 12, 1997 (62 *FR* 26041), EPA proposed to grant a two-year national capacity variance for three of the facility's waste streams, Medusa Scrubber Blowdown, Anderson Filter Media Rinsate, and Furnace Building Washdown. FMC/Astaris submitted comments on the proposal that the Anderson Filter Media Rinsate had been eliminated by applying pollution prevention techniques. However, FMC/Astaris identified three additional waste streams (Precipitator Slurry, NOSAP Slurry, and Phossy Water) generated in the same elemental phosphorus production process for which treatment capacity was not available. FMC/Astaris requested that these three additional wastes be included in the proposed two-year national capacity variance.

On May 26, 1998 (63 *FR* 28556), EPA finalized the Final LDR Phase IV rule, which granted a two-year national capacity variance for newly identified characteristic wastes from elemental phosphorus processing. This national capacity variance covered the five waste streams generated at the Pocatello facility, and extended the LDR effective date for these wastes to May 26, 2000.

In September, 1998, the United States agreed to delay the filing of the Consent Decree to explore options for penalty sharing with the Tribes. The Tribes subsequently were offered the

opportunity to become a formal party to the Consent Decree, but on October 9, 1998, the Fort Hall Business Council declined to sign the Consent Decree and passed a resolution opposing it.

On October 16, 1998, the United States filed the proposed Consent Decree in U.S. District Court for the District of Idaho, and opened a public comment period on the proposed Consent Decree.

On March 29, 1999, the United States filed the Proposed Consent Decree (*United States* v. *FMC,* Civ. No. 98–0406–E–BLW), requiring that FMC/Astaris design and construct a treatment system, referred to as the LDR Treatment System, which would treat the facility's production wastes to the LDR treatment standards. Under this RCRA Consent Decree, FMC/Astaris must begin operating the LDR Treatment System by May, 2002. In its ''Reply Memorandum in Further Support of Motion of the United States for Entry of Proposed RCRA Consent Decree,'' (dated May 27, 1999), the United States noted that FMC/Astaris would need to obtain Case-by-Case extensions of the LDR effective date in order to allow the continued discharge of wastes to the facility's on-site surface impoundments beyond the May 26, 2000 expiration date of the national capacity variance.

On July 12, 1999, FMC/Astaris Corporation submitted to EPA a request, along with documentation to support the required seven demonstrations in 40 CFR 268.5, for a one-year CBC extension of the LDR effective date for the five waste streams.

On July 13, 1999, the District Court granted the United States' motion to enter as final the Consent Decree.

The Shoshone-Bannock Tribes filed Notice of Appeal on August 11, 1999 and on November 29, 1999, filed an appeal of the final RCRA Consent Decree (Appeal No. 99–35821) in the United States Court of Appeals for the Ninth Circuit. This appeal was ultimately denied.

On March 8, 2000 (65 FR 12233), EPA proposed to approve FMC/Astaris' request for a one-year CBC extension of the LDR effective date.

On April 17, 2000, FMC/Astaris Idaho LLC, a joint venture combining the phosphorus chemical businesses of FMC Corporation and Solutia, Inc., became the owner and operator of the Pocatello facility.

On May 2, 2000, Elizabeth Cotsworth (Director of the EPA Office of Solid Waste) met with the Fort Hall Business Council in Pocatello, Idaho to consult with the Tribes regarding FMC/Astaris' request for a CBC extension.

On May 31, 2000 (65 *FR* 34694), EPA approved the CBC extension, extending the LDR effective date to May 26, 2001.

On November 1, 2000, FMC/Astaris submitted a request to EPA for a one-year renewal of their CBC extension. On March 16, 2001 (66 *FR* 15243), EPA proposed to approve the FMC/Astaris request.

On April 24, 2001 (66 *FR* 20656), EPA published a ''Notice of Data Availability'' to provide public notice that FMC/Astaris had provided additional information relevant to their request for renewal of their CBC extension.

C. What Other Actions Are Underway at the Pocatello facility?

The Pocatello facility is located on Shoshone-Bannock Tribes' lands (referred to as the Fort Hall Indian Reservation). Elemental phosphorus has been produced at this location for over 50 years. The Tribes are concerned about the cleanup of past environmental contamination resulting from these operations, and the risks posed by the continued discharge of untreated hazardous wastes into on-site surface impoundments. The RCRA Consent Decree addresses FMC/Astaris' past mishandling of hazardous wastes, and directs FMC/Astaris to take measures to avoid future environmental contamination. The Consent Decree mandates site-specific treatment requirements to deactivate ignitable and reactive waste streams, and requires FMC/Astaris to design, construct, and commence operation of a Land Disposal Restrictions Treatment System (LDR Treatment System) for these waste streams by May 2002. It also requires closure of surface impoundments (ponds) used to manage the wastes, establishes a Pond Management Plan, and mandates plant upgrades, including the installation of secondary containment for sumps, tanks, and piping at the facility.

As noted above, the Shoshone-Bannock Tribes raised an unsuccessful legal challenge to the Consent Decree, citing their opposition to the continued generation and on-site disposal of these hazardous wastes.

The Consent Decree is one of several actions underway to address the environmental impact of operations at the facility. Groundwater and soil contamination from old ponds is being addressed under a Superfund cleanup. Particulate air emissions will be addressed through a Clean Air Act Federal Implementation Plan. This Plan established federally enforceable limits and control requirements for particulate emissions.

D. What Decision Has Been Reached by the Tribes and FMC/Astaris Regarding The Use of a High Temperature Dust Filtration System at the Pocatello Facility?

In the Agency's March 16, 2001 **Federal Register** notice of proposed decision, we discussed the possibility that FMC/Astaris might switch to a High Temperature Dust Filtration (HTDF) system that would replace the LDR Treatment Plant now under construction (see 66 *FR* 15248). FMC/Astaris states that this technology, if employed, would eliminate two of the five waste streams and also cause a substantial change in the composition of the other three waste streams—such that the LDR Treatment Plant would no longer be necessary to treat these wastes. On April 24, 2001 (66 *FR* 20656), EPA published a ''Notice of Data Availability'' to provide public notice that FMC/Astaris had sent us additional information on the HTDF technology.

At this time, the Tribes and FMC/Astaris are discussing the implications of substituting the HTDF system for the LDR Treatment Plant. Meanwhile, construction of the LDR Treatment Plant is proceeding on schedule.

Today, we are approving this final CBC extension renewal based on the commitment made by FMC/Astaris that they will complete construction of the LDR Treatment Plant and begin its operation by May 2002. Should circumstances change, EPA will consider whether the extension remains warranted. See sections 40 CFR 268.5 (f) and (g), which say that the case-by-case applicant must notify EPA of changed circumstances, and that EPA is required to consider whether the approved case-by-case extension remains warranted in light of these changed circumstances. Public comments submitted on the April 24, 2001 ''Notice of Data Availability'' regarding the HTDF system do not apply to our approval today of the CBC extension renewal, which is keyed to the construction of the LDR Treatment Plant. EPA will address comments on the April 24, 2001 ''Notice'' if the Tribes and FMC/Astaris come to agreement on switching to the HTDF system.

E. Overview of the FMC/Astaris Request for Renewing Their CBC Extension

The Pocatello facility manufactures elemental phosphorus that is shipped to other facilities to produce phosphates and other phosphorus-based products for use in products such as processed foods, beverages, detergents, cleaners, agricultural chemicals, and water treatment chemicals. Elemental

phosphorus is produced by feeding a combination of phosphate ore, coke, and silica rock into electric arc furnaces.

As noted earlier, FMC/Astaris' application involves five waste streams which are generated in the production of elemental phosphorus and are part of the CBC extension renewal request: (1) Non-Hazardous Slurry Assurance Project (NOSAP) Slurry, (2) Medusa Scrubber Blowdown, (3) Furnace Building Washdown, (4) Precipitator Slurry, and (5) Phossy Water. These waste streams exhibit two characteristics of hazardous waste: Reactivity due to the presence of cyanide and phosphine, ignitability, and toxicity due to the presence of metals. The wastes are generated in large quantities and pose unique handling, treatment, and disposal considerations, given the presence of elemental phosphorus and cyanide. Each of these waste streams also contains varying levels of Naturally Occurring Radioactive Material, which most off-site commercial treatment, storage and disposal facilities are not permitted to manage.

FMC/Astaris requested a two-year national capacity variance from the Phase IV LDR requirements, and a subsequent one-year Case-by-Case (CBC) extension of the LDR effective date for these five waste streams. FMC/Astaris stated their need for the extension due to the lack of available treatment capacity for these five waste streams, the need for additional time to initially identify an appropriate treatment technology, and, when such technology subsequently was identified, the time to design, construct, and begin operation of an on-site LDR Treatment Plant. The initial CBC extension was approved by EPA.

On November 1, 2000, FMC/Astaris submitted a request to the EPA to renew for one year their existing CBC extension, set to expire on May 26, 2001. FMC/Astaris provided documentation that there still is no available off-site commercial treatment capacity for these five waste streams.

Since approval of the initial CBC extension, progress has been made toward completing the design, procuring equipment, and commencing construction of the planned LDR Treatment Plant. As required under their existing CBC extension, FMC/Astaris has submitted to EPA monthly progress reports documenting this. A detailed discussion of these showings are in the March 16, 2001 **Federal Register** document.

However, as was anticipated at the time of approval of the initial CBC extension, additional time is needed to complete the design work, finish construction, and begin operation of the LDR Treatment Plant. May 2002 remains the date for bringing the LDR Treatment Plant on-line.

The LDR Treatment Plant will treat the five waste streams using a modified Zimpro treatment process. The Zimpro process will reduce the levels of elemental phosphorus and cyanide in the wastes so that the wastes will not exhibit the characteristic of reactivity for phosphine and hydrogen cyanide gas, or the characteristic of ignitability. Underlying hazardous constituents contained in the wastes will meet all of the applicable treatment standards found in 40 CFR 268.48 for these constituents.

Until the LDR Treatment Plant is finished, the five waste streams will continue to be managed in two on-site surface impoundments (Ponds 17 and 18). These surface impoundments may be used until May 26, 2002. The surface impoundments are constructed to meet the RCRA minimum technological requirements of 40 CFR 268.5(h)(2), including liners and groundwater monitoring. They must be operated in compliance with the Pond Management Plan that is part of the Consent Decree. The LDR Treatment Plant will eliminate the need for these surface impoundments.

F. Summary of EPA's Evaluations of the FMC/Astaris Demonstrations Under 40 CFR 268.5(a)

The following summarizes our evaluation of the adequacy of the demonstrations made by FMC/Astaris for each of the seven criteria required under 40 CFR 268.5(a) to obtain a CBC extension renewal.

1. Section 268.5 (a)(1)—the Applicant (FMC/Astaris) Has Made a Good-Faith Effort To Locate and Contract With Treatment, Recovery, or Disposal Facilities Nationwide To Manage Their Waste in Accordance With the LDR Effective Date of the Applicable Restriction (May 26, 2001)

As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices to address the initial CBC extension), several surveys of treatment, storage, and disposal facilities (TSDFs) throughout the nation were conducted by FMC/Astaris to locate commercial treatment or disposal capacity. Each of these surveys showed that no TSDFs were able or willing to provide treatment or disposal capacity for these waste streams.

The presence of elemental phosphorus, the potential for generation of phosphine gas, lack of a permit to handle naturally occurring radioactive materials (NORM), and the volume of wastes to be managed were the primary reasons noted by the TSDFs in declining to manage these waste streams. EPA itself is not aware of any available capacity for these waste streams. No commercial entity providing waste treatment has disputed these conclusions, which have been made available for public comment in several **Federal Register** notices spanning a five-year time period.

On March 30, 2001, FMC/Astaris notified us that as a consequence of the current power shortage in the western United States, the facility reached a two-year agreement with Idaho Power Company to sell back electricity. As a result, the Pocatello facility will operate at a reduced level for an indefinite time. This reduction in production will result in a 30% reduction in the volume of the waste streams that are generated at the facility.

Except for one TSDF (Environmental Enterprises) contacted in the FMC/Astaris survey, the levels of phosphorus and NORM were the main reasons provided by TSDFs for not being able to manage the Pocatello waste streams. Several other TSDFs also said that they do not have the railcar capability to handle these waste streams. Based on our review of the survey information provided by FMC/Astaris and our follow-up discussion with Environmental Enterprises, the reduction in waste quantity at the Pocatello facility does not alter the conclusion that there still is no available capacity for these waste streams. At this point, even if a TSDF expressed an interest in taking these wastes, the time needed to design and construct the infrastructure for both the railcar loading and unloading facilities at Pocatello and the receiving TSDF would make this option unreasonable—given that the LDR Treatment Plant will be operational by May 2002.

FMC/Astaris has made a reasonable effort to locate adequate, alternative treatment capacity for the off-site management of the waste streams, and therefore has fulfilled the requirements of this demonstration.

2. Section 268.5 (a)(2)—The Applicant (FMC/Astaris) Has Entered Into a Binding Contractual Commitment To Construct or Otherwise Provide Alternative Treatment, Recovery, or Disposal Capacity That Meets The Treatment Standards Specified in 40 CFR Part 268, Subpart D or, Where Treatment Standards Have Not Been Specified, Such Treatment, Recovery, or Disposal Capacity Is Protective of Human Health and the Environment.

As discussed in the March 16 (66 FR 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 FR 34694) **Federal Register** notices to address the initial CBC extension), FMC/Astaris has a contract with Raytheon Engineers and Constructors to design and construct the LDR Treatment Plant. FMC/Astaris has provided EPA with documentation of their binding contractual commitment, such as a June 2000 Authorization for Expenditures for $122.5 million. In addition, copies of many purchase orders for equipment, supplies, and services have been provided to EPA. And, since approval of the initial CBC extension in May 2000, FMC/Astaris has provided monthly reports documenting progress made in the design and construction of the LDR Treatment Plant. These progress reports show a good-faith effort by FMC/Astaris to construct the LDR Treatment Plant, with approximately $60 million spent to date on this project. We also note that the RCRA Consent Decree imposes an additional binding legal commitment on FMC/Astaris to construct the LDR Treatment System. Under the RCRA Consent Decree, FMC/Astaris is compelled to design and construct the LDR Treatment System by May 2002. If FMC/Astaris fails to meet the stipulations of this RCRA Consent Decree, they will be subject to significant financial penalties.

We conclude that FMC/Astaris has demonstrated their binding contractual commitment to construct the LDR Treatment Plant.

3. Section 268.5 (a)(3)—Due to Circumstances Beyond the Applicant's (FMC/Astaris) Control, Such Alternative Capacity Cannot Reasonably Be Made Available by the Applicable Effective Date. This Demonstration May Include a Showing That the Technical and Practical Difficulties Associated With Providing the Alternative Capacity Will Result in the Capacity Not Being Available by the Applicable Effective Date

FMC/Astaris has committed considerable resources toward determining and developing the most appropriate treatment technology for these waste streams, which pose numerous and unique handling, safety, and treatment considerations. The lack of available commercial treatment capacity also attests to the difficulties encountered in managing these waste streams.

FMC/Astaris' search for appropriate treatment technology was delayed because they had to wait for EPA to finalize the Phase IV LDR treatment standards. As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices to address the initial CBC extension), FMC/Astaris documents that they made an intensive effort to determine the treatment technology most appropriate to treat the waste streams. Now that an appropriate treatment technology and treatment process have been identified, FMC/Astaris is constructing the LDR Treatment Plant.

We are convinced that FMC/Astaris has acted in good faith to provide the necessary treatment capacity, and that it is engaged in constructing the LDR Treatment Plant to provide the necessary treatment capacity. The monthly progress reports submitted by FMC/Astaris since June 2000 show that FMC/Astaris is proceeding on schedule to construct the LDR Treatment Plant. However, FMC/Astaris will not be able to begin operation of the LDR Treatment Plant by the May 26, 2001 expiration date of their existing CBC extension.

We conclude the lack of treatment capacity for these waste streams is due to circumstances beyond the control of FMC/Astaris. Therefore, FMC/Astaris has met the § 268.5(a)(3) demonstration.

4. Section 268.5 (a)(4)—The Capacity Being Constructed or Otherwise Provided by the Applicant (FMC/Astaris) Will Be Sufficient To Manage the Entire Quantity of Waste That Is the Subject of the Application

As discussed in the March 16, 2001 (66 FR 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 FR 34694) **Federal Register** notices to address the initial CBC extension), the LDR Treatment Plant being constructed will use a combination of lime treatment, anoxic hydrolysis, metals precipitation, filtration, and stabilization. This treatment will reduce the levels of elemental phosphorus and cyanide in the waste so that the waste does not exhibit the characteristic of reactivity or ignitability. The treatment will also stabilize the waste by permanently and irreversibly bonding the waste into the molecular structure of a solid product so that it does not leach heavy metals in concentrations greater than applicable LDR universal treatment standards. FMC/Astaris has provided documentation demonstrating that this treatment system will meet the LDR treatment standards.

FMC/Astaris states that the LDR Treatment Plant will have sufficient capacity to treat the full annual production of five waste streams. Within five years of commencing operation of the LDR Treatment Plant, it will also be able to treat all the accumulated solids in Pond 18, as required by the RCRA Consent Decree.

As previously mentioned, FMC/Astaris notified us that the facility will operate at a reduced level for an indefinite time. This reduction in production will result in an approximately 30% reduction of the quantity of the five waste streams generated. Since approval of their existing CBC extension in May, 2000, FMC/Astaris has reduced by approximately 20% their estimate of the quantity of Pond 18 solids that will need to be removed and treated in the LDR Treatment Plant. This reduction in solids is due to improved efficiency and the increased use of the NOSAP System. The combination of reduced solids in Pond 18, along with the reduction in quantity of waste generated, reinforces our conclusion that the planned LDR Treatment Plant will provide sufficient treatment capacity.

5. Section 268.5 (a)(5)—The Applicant (FMC/Astaris) Provides a Detailed Schedule for Obtaining Operating and Construction Permits or an Outline of How and When Alternative Capacity Will Be Available

As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices to address the initial CBC extension), FMC/Astaris has provided EPA with a schedule for the design, construction, and permitting of the LDR Treatment Plant, which will be on-line by May 2002. FMC/Astaris has submitted monthly progress reports to us since June, 2000 showing that they are meeting their schedule. We conclude that FMC/Astaris has made a good faith effort to construct the LDR Treatment Plant in a timely manner.

6. Section 268.5 (a)(6)—The Applicant (FMC/Astaris) Has Arranged for Adequate Capacity To Manage Their Waste During an Extension, and Has Documented the Location of all sites at Which the Waste Will Be Managed

As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision, FMC/Astaris will continue to manage the five waste streams in two of their on-site surface impoundments, referred to as Ponds 17 and 18, during this CBC extension renewal. FMC/Astaris has provided data showing that each of these surface impoundments will have the necessary capacity available to manage these wastes during the extension.

The reduction (approximately 30%) in quantity of waste generated, due to the electric power shortage, and the approximately 20% decrease in the quantity of Pond 18 solids that will need to be removed and treated in the LDR Treatment Plant, also ensures that there will be sufficient capacity in Ponds 17 and 18. Even prior to this reduction (see March 16, 2001 (66 *FR* 15243) **Federal Register** notice of proposed decision), we concluded that Ponds 17 and 18 had adequate capacity to manage these waste streams until May 2002.

Further assurance of adequate capacity and proper management of these surface impoundments (ponds) will be provided by FMC/Astaris' adherence to the Pond Management Plan, as required by the RCRA Consent Decree.

We conclude that FMC/Astaris has satisfied this demonstration.

7. Section 268.5 (a)(7)—Any Waste Managed in a Surface Impoundment or Landfill During the Extension Period Will Meet the Requirements of 40 CFR 268.5(h)(2)

As previously described, the waste streams will continue to be managed in the on-site surface impoundments (Ponds 17 and 18) during this CBC extension renewal, until May 26, 2002. As discussed in the March 16 (66 *FR* 15243) **Federal Register** notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices to address the initial CBC extension), FMC/Astaris has provided information demonstrating that these surface impoundments were constructed to meet the RCRA minimum technological requirements of 40 CFR 268.5(h)(2), including such protective measures as double liners, leak detection, and groundwater monitoring wells. We conclude that FMC/Astaris has satisfied this demonstration.

II. What Are EPA's Responses to Comments Submitted on the Notice of Proposed Approval of the CBC Extension Renewal?

The Fort Hall Business Council and FMC/Astaris submitted comments in response to the March 16, 2001 **Federal Register** notice. The Fort Hall Business Council expressed the Tribes' continued opposition to the generation and disposal of untreated wastes in the on-site surface impoundments. The following section discusses specific issues raised in the comments made by the Fort Hall Business Council and FMC/Astaris.

FMC/Astaris expressed support of our proposed decision to approve the renewal of their existing CBC extension. FMC/Astaris noted the non-availability of off-site treatment capacity, and the need for additional time to construct the LDR Treatment Plant and bring it on-line to meet the May 2002 startup date. FMC/Astaris also provided clarification of several statements made by us in the March 16, 2001 ''Notice''. In a letter to EPA, dated May 3, 2001, FMC/Astaris responded to the comments submitted by the Fort Hall Business Council.

A. Given the Recent Reductions in the Pocatello Facility Production and Waste Generated, Can FMC/Astaris Now Find Off-Site Treatment Capacity?

With the recent announcement by FMC/Astaris of a reduction in production and a resultant reduction in waste generated, the Fort Hall Business Council believes it may now be possible for a TSDF to handle the reduced volume of waste. They note the 40 CFR 268.5(a)(3) requirement—that alternative capacity cannot reasonably be made available by the effective date—may no longer be successfully demonstrated by FMC/Astaris.

As discussed earlier, except for one facility (Environmental Enterprises) contacted in the FMC/Astaris survey, the levels of phosphorus and NORM were the main reasons provided by TSDFs for not being able to manage the Pocatello waste streams. Several other TSDFs also said that they did not have the railcar capability to handle these waste streams. We reiterate that based on our review of the survey information provided by FMC/Astaris and our follow-up discussion with Environmental Enterprises, there is no available treatment capacity for these waste streams. At this point, even if a TSD facility expressed an interest in taking these wastes, the time needed to design and construct the infrastructure for both the railcar loading and unloading facilities at Pocatello and the receiving TSDF facility would make this option unreasonable '' given that the LDR Treatment Plant is well under construction and will be in operation by May 2002.

B. Who Will Permit the On-Site Disposal of the LDR Treatment Plant Residue?

The LDR Treatment Plant will generate non-hazardous treatment residues (that no longer exhibit a characteristic of hazardous waste) that will be stabilized prior to disposal. The Fort Hall Business Council states that under 40 CFR 268.5(a)(5), FMC/Astaris must obtain a permit from the Shoshone-Bannock Tribes for construction of any on-site landfill for the disposal of these residuals .

FMC/Astaris states on page 89 of their November 1, 2000 submittal to us that: ''Treated waste that has been verified to meet LDR and Consent Decree requirements will be disposed of in compliance with all applicable regulatory standards either on-site at the Astaris Idaho plant or at an off-site location.'' The Consent Decree only requires FMC/Astaris to treat their waste in the LDR treatment facility so that upon completion of treatment, the waste will have met all LDR requirements and also will no longer exhibit a characteristic of hazardous waste. The subsequent disposal of the waste will not be governed by RCRA hazardous waste rules, but by solid waste rules, including applicable Tribal requirements. Plans and schedules for the disposal of waste once it has met all RCRA LDR requirements are not required for the CBC extension. Finally,

FMC/Astaris has advised us that no final decision has been made on where waste treated by the LDR Treatment Plant will be disposed. Construction of an on-site landfill may not be required if FMC/Astaris selects an off-site facility for this waste. In any case, as noted in their May 3, 2001 to EPA, FMC/Astaris states: ''If Astaris continues with its current plan to dispose of this material on-site, it will apply for and obtain any solid waste permit that may be necessary.''

C. Does EPA Approval of This Final CBC Extension Impose Substantial Direct Compliance Costs on the Tribes?

The Fort Hall Business Council disagrees with our interpretation that this action will not impose substantial direct compliance costs on the Tribes. They state that this CBC extension renewal will require the Tribes to monitor the facility for compliance with the Pond Management Plan. EPA's view is that it, not the Tribes, is responsible for monitoring compliance with the Pond Management Plan.

The Pond Management Plan requires air monitoring at operating ponds and the fence line near the ponds. It also requires monitoring off-site if threshold values for phosphine and hydrogen cyanide are exceeded at the fence line. The Consent Decree does require FMC/Astaris to provide the Tribes with copies of reports on implementation of the Pond Management Plan.

EPA welcomes the Tribes' interest and involvement in this monitoring, and will continue to seek additional opportunities for Tribal involvement.

D. How Does This CBC Extension Renewal Affect Pond Emissions Onto the Fort Hall Indian Reservation for an Additional Year?

The Fort Hall Business Council states that allowing an additional year for hazardous waste disposal in the impoundments allows an additional year for toxic gases (phosphine and hydrogen cyanide) to be emitted onto the Fort Hall Indian Reservation.

There will be gas emissions associated with the discharge of the five hazardous wastes to the on-site surface impoundments (Ponds 17 and 18). The Pond Management Plan is designed to ensure that these emissions do not pose a danger to public health, however. There are no residences or businesses near the ponds. However, there is a potential for workers, such as railroad workers, to be in the area. Under the Pond Management Plan, FMC/Astaris must continuously monitor for phosphine and hydrogen cyanide around the ponds, and evacuate workers without respiratory protection if the specified limits for workers are exceeded. In addition, the Pond Management Plan requires monitoring every four hours at the fence line to ensure that dangerous levels of phosphine and hydrogen cyanide are not present. If health-based levels are exceeded at the fence line, FMC/Astaris must monitor off-site and evacuate off-site areas near the ponds. FMC/Astaris also must provide immediate notice of any confirmed exceedance of the specified health-based levels to the Shoshone-Bannock Tribes, EPA, and the County Sheriff.

Once the LDR Treatment System comes on line in May 2002, further discharges to the on-site surface impoundments will be eliminated. The LDR Treatment Plant will also allow the removal and treatment of accumulated solids from Pond 18, thereby eventually eliminating the hazards posed by Pond 18 to the Fort Hall Indian Reservation.

III. What Is EPA's Final Determination on the FMC/Astaris Request To Renew Their Existing CBC Extension?

EPA concludes that FMC/Astaris has made each of the seven demonstrations required by 40 CFR 268.5(a) to be granted a renewal of their existing CBC extension. There is insufficient capacity to treat these wastes to meet the LDR requirements, a binding contractual commitment has been made to construct the necessary treatment capacity, and treatment capacity cannot reasonably be made available by the May 26, 2001 LDR effective date. Furthermore, EPA is satisfied that FMC/Astaris has made and is continuing to make a good-faith effort toward providing sufficient and appropriate treatment capacity for the five waste streams.

Therefore, EPA today is approving a final one-year extension of the applicable LDR effective date, until May 26, 2002, for these five waste streams: (1) NOSAP Slurry, (2) Medusa Scrubber Blowdown, (3) Furnace Building Washdown, (4) Precipitator Slurry, and (5) Phossy Water, generated at the Pocatello, Idaho facility. These wastes may continue to be managed in on-site surface impoundments (Ponds 17 and 18) without being subject to the land disposal restrictions applicable to these wastes until the LDR Treatment Plant commences operation (which must happen by May 26, 2002).

As previously mentioned, the Tribes are opposed to any extension of the LDR effective date, arguing that these hazardous wastes must be treated prior to being land disposed. As discussed in the March 16, 2001 Notice of proposed decision (and the referenced March 8, 2000 (65 *FR* 12233) and May 31, 2000 (65 *FR* 34694) **Federal Register** notices), the United States recognizes that it owes an important trust responsibility to the Tribes, on whose lands the facility is located. This includes the United States' responsibility to perform its obligations under RCRA and other statutes to protect the environment and the natural resources of tribal lands. We also acknowledge the Tribes' concerns regarding the continued placement of untreated hazardous wastes in the on-site surface impoundments. As noted in sections I B and I C of this notice, the United States entered into a RCRA Consent Decree with FMC/Astaris to address FMC/Astaris' past mishandling of hazardous wastes and to direct FMC/Astaris to take measures to avoid future environmental contamination. The Consent Decree mandates site-specific treatment requirements to deactivate ignitable and reactive waste streams, and requires FMC/Astaris to design, construct, and commence operation of a LDR Treatment Plant for these waste streams by no later than May 2002. It also requires closure of specified surface impoundments (ponds) used to manage the wastes, establishes a Pond Management Plan, and mandates plant upgrades, including the installation of secondary containment for sumps, tanks, and piping at the facility. The United States must also consider facts such as section 3004(h)(3) of RCRA, which establishes that an applicant who satisfies the conditions for a CBC extension (or renewal of a CBC extension) will be granted one.

The issue in evaluating the initial CBC extension application, as well as this request for renewal of their existing CBC extension, is whether FMC/Astaris has satisfied applicable statutory and regulatory conditions. As previously noted, it is not yet feasible for FMC/Astaris to treat these wastes prior to placement in the on-site surface impoundments, and there is no available off-site commercial treatment capacity for these five hazardous waste streams. The necessary treatment capacity and capability will not be available until the LDR Treatment Plant commences operation by May 2002. We are satisfied that FMC/Astaris has made and is continuing to make a good-faith effort to construct and commence operation of the LDR Treatment Plant by May 2002.

IV. What Must FMC/Astaris Do Under This CBC Extension Renewal?

Having been granted this CBC extension renewal, FMC/Astaris must immediately notify EPA of any change in the demonstrations made in the

petition (see 40 CFR 268.5(f)). FMC/Astaris also must continue to submit a monthly report describing the progress being made toward design, construction, and operation of the LDR Treatment Plant. The monthly progress report also must identify any delay, or possible delay in developing this treatment capacity and describe the actions being taken in response to the delay (see 40 CFR 268.5(g)). The monthly progress report must be submitted every thirty days, by the 26th day of each month for the duration of this CBC extension renewal, until June 26, 2002.

Four copies of each monthly progress report must be submitted to the following address: Chief, Analysis and Information Branch, U.S. Environmental Protection Agency, Office of Solid Waste (5302W), 1200 Pennsylvania Avenue, NW., Washington, D.C. 20460.

A copy of the monthly progress report also must be provided to EPA Region 10 at the following address: Director, Office of Waste and Chemicals Management, U.S. Environmental Protection Agency 1200 Sixth Avenue, Seattle, WA 98101.

A copy of the monthly progress report must be provided to the Shoshone-Bannock Tribes at the following address: Director, CERCLA/RCRA Program, Shoshone-Bannock Tribes, P.O. Box 306, Fort Hall, Idaho 83203.

EPA can revoke this CBC extension renewal if FMC/Astaris fails to make a good-faith effort to meet the schedule for completion; if EPA denies or revokes any required permit; if conditions certified in the CBC extension renewal application change; or for a violation of any law or regulations in parts 260–266 and 268 (see § 268.5(g)). No further extension of the LDR effective date for these five hazardous wastes is allowed.

V. Administrative Requirements

Today, the EPA is approving the FMC/Astaris request for a one-year renewal of their existing CBC extension of the effective date of the RCRA land disposal restrictions, for a facility located on Tribal Lands. This action will have a substantial direct effect on the people of the Shoshone-Bannock Tribes and the Ft. Hall Business Council, as it will permit this facility to continue treating, storing, or disposing of five waste streams as currently managed in on-site surface impoundments until May 26, 2002.

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations and other actions that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

EPA has concluded that this decision has tribal implications, as it has a substantial direct effect on the people of the Shoshone-Bannock Tribes (on whose lands the Pocatello facility is located) and the Ft. Hall Business Council. Consistent with the Executive Order and EPA's Indian policy, EPA has ensured the meaningful and timely input of tribal officials of the Ft. Hall Business Council in the development of this decision.

EPA has had numerous meetings and calls with Tribal government officials from May 2000 to April 2001. For example, on May 2, 2000, Elizabeth Cotsworth (Director-EPA Office of Solid Waste) met with the Ft. Hall Business Council in Pocatello, Idaho to consult with the Tribes regarding FMC's request for a CBC extension. On June 9, 2000, Tim Fields (Assistant Administrator-EPA Office of Solid Waste and Emergency Response), met the Ft. Hall Business Council on the same issue. EPA has specifically solicited comment on this CBC extension from the elected officials of the Ft. Hall Business Council, and in recent months, Chuck Findley (Acting EPA Region 10 Administrator) has had several meetings and telephone conversations with the Ft. Hall Business Council to discuss the CBC extension and the HTDF option as an alternative to the LDR system.

Other consultation measures have included staff level discussions to obtain feedback from the Tribes on information provided by FMC/Astaris, providing the Tribes with an advance copy of draft **Federal Register** notices of Proposed Decision for their review and comment prior to publishing the notices, and inviting the Tribes to participate in all meetings held with FMC/Astaris on the CBC extension, are described in previous **Federal Register** notices addressing the CBC extension.

Finally, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA will continue to consult with the Tribes after this decision on all matters relating to the FMC/Astaris facility which affect the Tribes' interests.

As discussed in the March 16, 2001 (66 FR 15243) **Federal Register** notice, Executive Order 13132, entitled ''Federalism,'' this notice also does not have federalism implications. It 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. Thus, the requirements of this Executive Order do not apply to this action.

Authority: Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924).

Dated: May 11, 2001.

Stephen D. Luftig,

Acting Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 01–12880 Filed 5–18–01; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the June 14, 2001 regular meeting of the Farm Credit Administration Board (Board) will not be held. The FCA Board will hold a special meeting at 9 a.m. on Thursday, June 21, 2001. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: May 16, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–12819 Filed 5–17–01; 11:17 am]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Acquisition Services Information Requirements.''

DATES: Comments must be submitted on or before July 20, 2001.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room F–4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to ''Acquisition Services Information Requirements.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to revise the following currently approved collection of information:

Title: Acquisition Services Information Requirements.

OMB Number: 3064–0072.

Frequency of Response: Occasional.

Affected Public: Contractors and vendors who wish to do business with the FDIC.

Estimated Number of Respondents: 12,546.

Estimated Time per Response: varies from .05 hours to 1.0 hours.

Estimated Total Annual Burden: 6,285 hours.

General Description of Collection: The collection involves the submission of information on various forms by contractors who wish to do business, or are currently under contract with the FDIC.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, DC, this 14th day of May, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–12628 Filed 5–18–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE & TIME: *Thursday, May 17, 2001.*

This meeting has been cancelled.

DATE & TIME: *Thursday, May 24, 2001 at 10:00 a.m.*

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

Final Audit Report on the California State Republican Party.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–12866 Filed 5–17–01; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1367–DR]

Iowa; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa, (FEMA–1367-DR), dated May 2, 2001, and related determinations.

EFFECTIVE DATE: May 9, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 2, 2001: Wapello County for (Categories A and B) under the Public Assistance program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 01–12670 Filed 5–18–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1366–DR]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1366–DR), dated April 27, 2001, and related determinations.

EFFECTIVE DATE: April 27, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 27, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5121, as follows:

I have determined that the damage in certain areas of the State of Kansas, resulting from severe storms, hail, flooding and tornadoes beginning on April 21, 2001, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Carlos Mitchell of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Kansas to have been affected adversely by this declared major disaster:

Barton County for Individual Assistance and Public Assistance.

All counties within the State of Kansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–12669 Filed 5–18–01; 8:45 am]

BILLING CODE 6718–02–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 June 4, 2001.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Martin Tuchman, Princeton, New Jersey; to acquire voting shares of Yardville National Bancorp, Mercerville, New Jersey, and thereby indirectly acquire voting shares of Yardville National Bank, Yardville, New Jersey.

Board of Governors of the Federal Reserve System, May 15, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12631 Filed 5–18–01; 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 June 14, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. First National Bank Group, Inc., Edinburg, Texas; to acquire 51 percent of the voting shares of Alamo Corporation of Texas, Alamo, Texas, and thereby indirectly acquire Alamo Bank of Texas, Alamo, Texas.

Board of Governors of the Federal Reserve System, May 15, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12630 Filed 5–18–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 4, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Hancock Holding Company, Gulfport, Mississippi; to acquire Lamar Data Solutions, Inc., Purvis, Mississippi, and thereby to engage de novo in data processing and data transmission services for financial institutions, pursuant to section 225.28(b)(14)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, May 15, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–12629 Filed 5–18–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—04/17/2001			
20011672	The Sisters of Charity of St. Augustine, Health System, Inc.	HCA-The Healthcare Company	Columbia/HCA Healthcare Corporation of South Carolina.
20011700	The Sage Group plc	Interact Commerce Corporation	Interact Commerce Corporation.
20011708	Ford Motor Company	Seth M. Siegel	The Beanstalk Group (Europe). The Beanstalk Group Inc. (DE). The Beanstalk Group Inc. (NY).
20011709	Ford Motor Company	Michael S. Stone	The Beanstalk Group, Inc.
Transactions Granted Early Termination—04/18/2001			
20011711	MedAssets.com, Inc	Earl H. Norman	Health Services Corporation of America.
20011718	Church & Dwight Co., Inc	USA Detergents, Inc	USA Detergents, Inc.
Transactions Granted Early Termination—04/20/2001			
20011662	Smiths Group plc	Barringer Technologies Inc	Barringer Technologies Inc.
20011696	Littlejohn Fund II, L.P	Magne Tek Inc	Magne Tek Asia Ltd., Magne Tek. Electronics China Co. Ltd. Magne Tek Componentes Electricos, S.A. de C.V. Magne Tek Matamoras, S.A. de C.V.
20011715	Microsoft Corporation	Ensemble Studios Corporation	Ensemble Studios Corporation.
20011739	Nautica Enterprises, Inc	Benjamin Freiwald	Earl Jean, Inc.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—04/23/2001			
20011713	LSI Logic Corporation	C-Cube Microsystems Inc	C-Cube Microsystems Inc.
20011720	Normandy Mining Limited ACN 009 295 765.	Franco-Nevada Mining Corporation Limited.	Midas Joint Venture, Inc.
20011722	Illinois Tool Works Inc.	Foilmark, Inc	Foilmark, Inc.
20011725	The Stanley Works	Global Private Equity III Limited Partnership.	Contact East, Inc.
20011726	Protective Industries, LLC	MIV Holdings, S.A	Mark IV Industries, Inc.
20011728	General Electric Company	Paragon Leasing	Paragon Leasing
Transactions Granted Early Termination—04/25/2001			
20011698	Tyco International Ltd.	The CIT Group, Inc	The CIT Group, Inc.
20011721	Cisco Systems, Inc	Velocita Corp	Velocita Corp.
Transactions Granted Early Termination—04/26/2001			
20011693	United Parcel Service, Inc	Miles Group, Inc	Miles Group, Inc.
Transactions Granted Early Termination—04/27/2001			
20011548	Xcel Energy Inc	Duke Energy Corporation	Duke Capital Corporation. Duke Energy Audrain, LLC.
20011649	Royster-Clark Group, Inc	Land O'Lakes, Inc	Agro Distribution, LLC.
20011650	Royster-Clark Group, Inc	Cenex Harvest States Cooperatives	Agro Distribution, LLC.
20011701	Wells Fargo & Company	ACO Brokerage Holdings Corporation	ACO Brokerage Holdings Corporation.
20011714	Micron Technology, Inc	Interland, Inc	Interland, Inc.
20011744	Pilot Corporation	USX Corporation	Speedway SuperAmerica LLC.
20011745	USX Corporation	Pilot Corporation	Pilot Corporation.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–12679 Filed 5–18–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 992 3276]

Gateway, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Linda Badger, Federal Trade Commission, Western Region—San Francisco Office, 901 Market St., Suite 570, San Francisco, CA 94103. (415) 848–5151.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 15, 2001), on the World Wide Web, at *http://www.ftc.gov/os/2001/05/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Gateway, Inc. (''Gateway'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Gateway advertises and sells personal computers, computer peripherals, software, and Internet services to the public. This matter concerns allegedly

false and deceptive advertising of Gateway's Internet access service, ''Gateway.net.'' The Commission's proposed complaint alleges that Gateway advertised that with the purchase of certain computer models, Gateway.net Internet access service would be included for free for one year, or could be purchased for a flat fee, such as $14.95 a month. In fact, for many consumers one year of Gateway.net was not free or obtainable for a flat fee, because these customers incurred long distance charges to access Gateway.net, or were charged $3.95 per hour by Gateway for the use of a ''toll-free'' telephone number to access the service. The Commission's proposed complaint challenges these ''free'' or ''flat-fee'' ads as both misrepresentations and as failures to disclose material facts under Section 5 of the FTC Act. Further, the complaint alleges that Gateway falsely represented that the use of its ''toll-free'' 1–888 number to connect to the Internet was free to consumers. In fact, Gateway charged consumers $3.95 per hour for the use of this ''toll-free'' number.

The proposed consent order contains provisions designed to prevent Gateway from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the company from misrepresenting the price or cost of any Internet access service, or of any ''toll-free'' telephone number. Under the order, the term ''Internet access service'' is defined as ''any service that enables a consumer to access the Internet or any other electronic network.''

Part II of the order prohibits representations regarding the price or cost of any ''1–800'' or ''toll-free'' telephone number provided to the consumer by Gateway unless it discloses, clearly and conspicuously, the dollar amounts of any hourly surcharges and any other fees it charges for the use of such numbers. Part III of the proposed order requires that Gateway clearly and prominently disclose that consumers may have to pay long distance telephone charges, hourly surcharges, or other costs in excess of local telephone service charges to access any Internet access service. Gateway must disclose the dollar amounts of any such fees within its control or the control of any of its promotional partners providing the service. It must also provide a means for each consumer to ascertain whether he or she would incur such fees to access the service, and inform consumers that they should contact their local telephone company to determine whether using the access telephone number for the location closet to them will result in charges in excess of local telephone service charges.

Part IV of the order requires that Gateway maintain customer support to answer consumer inquiries regarding any Internet access service, including but not limited to, an adequately staffed toll-free number where consumers can determine whether they have a local access number for such service.

Part V is a redress provision requiring that Gateway refund all charges for ''toll-free'' numbers paid by local access plan gateway.net customers who registered for the plan between January 19, and April 1, 1999, and who paid such fees up until August 15, 1999. Parts VI through IX of the proposed order contain the usual reporting and compliance provisions, and, Part X is a provision ''sunsetting'' the order after twenty years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–12677 Filed 5–18–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 002 3061]

Juno Online Services, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Darren Bowie or Laura Sullivan, FTC/S–4002, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–2018 or 326–3327.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with an accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 15, 2001), on the World Wide Web, at *http://www.ftc.gov/os/2001/05/index.htm* A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of eac comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Juno Online Services, Inc. (''Juno'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Juno is an Internet service provider with approximately 842,000 subscribers to its fee-based services and nearly 4 million total active subscribers. Juno typically charges subscribers a flat monthly fee for its fee-based services. The company's subscriber revenues reached early $34.5 million for 1999 and $73.9 million last year.

This matter concerns allegedly false claims for its ''free'' and fee-based online services. The Commission's proposed complaint alleges:

• Juno falsely represented that consumers participating in its free trial periods for its fee-based Internet service could cancel at any time before the free trial expired and avoid incurring charges, and Juno failed to disclose the restrictive procedures that subscribers must follow to cancel this service;

• Juno misrepresented the duration of its free trial offers for its fee-based service and, in other instances, failed to disclose that these free trial periods must be completed within a month;

• Juno misrepresented that there were no additional costs associated with using its free Internet service, and failed to adequately disclose important information about potential long distance telephone toll charges (''toll charges'') in promoting its free, fee-based and free trial period offers;

• Juno failed to adequately disclose in its advertising for certain rebate programs both the possibility of incurring toll charges while using its fee-based Internet service and applicable cancellation penalties; and

• Juno misrepresented that its Internet service was available for purchase at certain prices, when it was not, and concurrently misrepresented the purpose for which it solicited credit card and other personal identifying information from consumers

The proposed consent order contains several provisions designed to prevent Juno from engaging in similar acts and practices in the future and requires redress for certain injured consumers.

Part I of the proposed consent order prohibits Juno from misrepresenting the price or cost of any electronic mail, Internet or other online service (''Internet services''). The Part also prohibits Juno from misrepresenting the ability or terms by which consumers can cancel these Internet services, or the amount of time consumers have to use these services during a free trial period before fees are charged. Part I further prohibits Juno from falsely representing that Internet service is available for purchase—when it is not—and from falsely representing why it requests or collects credit card or any other personal identifying information from consumers.

Part II of the proposed consent order prohibits Juno from beginning to compute the billing cycle or free trial period for its Internet services before the consumer is able to use these services. In cases, however, where it is necessary to provide consumers with a software upgrade or hardware installment before they can use these services as advertised, Juno can comply with this Part if it clearly and conspicuously discloses when it will begin to compute the billing cycle or free trial period for these consumers before they register for these services.

Part III of the proposed consent order requires Juno to clearly and conspicuously disclose obligations that consumers have to cancel their Internet service and the procedures consumers must follow to effectively cancel their service.

Part IV of the proposed consent order requires Juno to provide consumers with reasonable means to cancel its Internet services, at a minimum providing for cancellation through e-mail and a toll-free telephone number. The Part further requires Juno to maintain adequate customer support to promptly handle requests for cancellation, terminating service before the next billing cycle.

Parts V and VI of the proposed consent order require Juno to disclose clearly and conspicuously potential toll charges associated with sing its services and any cancellation penalties.

Part VII of the proposed consent order requires that Juno provides consumers with reasonable means to determine the telephone numbers available for accessing its Internet services and the town or city where these numbers are located—at least making this information available in a directory posted on its Web site and through a toll-free telephone number. The Part further requires Juno to maintain adequate customer support to respond to consumer inquiries about its access telephone numbers.

Part VIII of the proposed consent order prohibits Juno from using or disclosing the personal identifying information obtained by the company in connection with its deceptive dry test advertisements. The Part further conditions the Commission's approval of this consent order on the veracity of representations made by Juno that: (1) did not collect credit card numbers provided by consumers responding to these dry test advertisements; (2) it has since deleted any other personal identifying information that it did collect from consumers in connection with these advertisements; and (3) it did not share this information with any third party.

Part IX of the proposed consent order prohibits Juno from providing the means and instrumentalities for any third party to violate any provision of the consent order.

Part X of the proposed consent order requires Juno to offer reimbursement to certain consumers for toll charges incurred in the first two months of subscribing to its Internet services. Eligible consumers include those who: (a) subscribed to Juno's Internet service as part of a rebate program that required the purchase of another product or service and subscription to respondent's Internet services for a period of more than a month; and (b) cancelled their subscription and either (i) identified the unavailability of a local access number as a reason for the cancellation; or (ii) complained to Juno about incurring telephone toll charges. Eligible consumers are required to supply Juno with a copy of their telephone bill(s) reflecting the amount of the toll charges they incurred. Consumers, however, who incurred such toll charges at least 18 months prior to the date on which they mailed their application form, also can prove their claim with (a) a copy of a check or other form of payment; or (b) a written declaration indicating the amount of the toll charges that they incurred. Consumers who provide these alternative proofs of claim are entitled to receive a reimbursement not to exceed a maximum dollar amount.

Parts XI through XV of the proposed consent order are standard record keeping and compliance provisions. Part XIII requires that respondent provides a summary and explanation of the consent order requirements and the consent order to all retailers and other parties who promoted its Internet services as part of a rebate program. Part XVI of the proposed consent order ''sunsets'' the order after twenty years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–12678 Filed 5–18–01; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary of Health

have taken final action in the following case:

Ayman Saleh, Ph.D., University of Pittsburgh: Based on the report of an inquiry conducted by the University of Pittsburgh and additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Dr. Saleh, former postdoctoral research associate, School of Medicine, University of Pittsburgh, engaged in scientific misconduct in research supported by the National Institutes of Health.

PHS finds that Dr. Saleh falsified:

(A) Data for a manuscript which purported to show Western blots of rabbit Bcl-2 and tubulin; the blots were actually obtained from different experiments by another researcher using antibody against Hsp70 and against Bag-1, respectively;

(B) The label on a Western blot for Bcl-2 that he presented to the inquiry committee as evidence that he had conducted the experiment at issue; the blot was actually from a different experiment by a coworker;

(C) Data for a laboratory figure purported to represent a rabbit PARP cleavage blot; the data was from another experiment, and the antibody to PARP was not available to Dr. Saleh at that time;

(D) Western blot data on pcasp-9 and p37/p35 for a manuscript on Hsp27; the data represented experiments that could not be performed because the cell lines were unavailable at the time; and

(E) Figure 2b, the panel that shows a Western blot of Casp-9(WT) in a publication by Srinivasa M. Srinivasula, Ramesh Hegde, Ayman Saleh, Pinaki Datta, Eric Shiozaki, Jijie Chais, Ryung-Ah Lee, Paul D. Robbins, Theresa Fernandes-Alnemri, Yigong Shi, and Emad S. Alnemri. ''A conserved XIAP-interaction motif in caspase-9 and Smac/DIABLO regulates caspase activity and apoptosis.'' Nature 410(6824):112–116, 2001. The Figure 2b data were actually taken from a Western blot of Bcl-XL data, in which Dr. Saleh transposed the lanes.

The experiments examined the regulation of programmed cell death (apoptosis), a process that is important to a better understanding of cancer. Figure 2b in the Nature paper represented a control experiment that confirmed the association of an X-linked gene to a particular type of apoptosis.

Dr. Saleh has entered into a Voluntary Exclusion Agreement with PHS in which he has voluntarily agreed for a period of three (3) years, beginning on May 3, 2001:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR Part 76 (Debarment Regulations);

(2) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris Pascal,

Director, Office of Research Integrity.

[FR Doc. 01–12681 Filed 5–18–01; 8:45 am]

BILLING CODE 4150–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to grant a ''Voluntary Customer Satisfaction Survey Generic Clearance for the Agency for Healthcare Research and Quality.'' In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection request to allow AHRQ to conduct these customer satisfaction surveys.

DATES: Comments on this notice must be received by July 20, 2001.

ADDRESSES: Written comments should be submitted to: Cynthia D. McMichael, Reports Clearance Officer, AHRQ, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

Voluntary Customer Satisfaction Survey Generic Clearance for the Agency for Healthcare Research and Quality

In response to Executive Order 12862, the Agency for Healthcare Research and Quality (AHRQ) plans to conduct voluntary customer satisfaction surveys to assess strengths and weaknesses in program services. Customer satisfaction surveys to be conducted by AHRQ may include readership surveys from individuals using AHRQ automated and electronic technology data bases to determine satisfaction with the information provided or surveys to assess effects of the grants streamlining efforts. Results of these surveys will be used in future program planning initiatives and to redirect resources and efforts, as needed, to improve AHRQ program services.

The current clearance will expire December 31, 2001. A generic approval will be requested from OMB to conduct customer satisfaction surveys over the next three years.

Method of Collection

The data will be collected using a combination of preferred methodologies appropriate to each survey. These methodologies are:

- Evaluation forms;
- Mail surveys;
- Focus groups;
- Automated and electronic technology (e.g., instant fax, on-line, feedback forms for AHRQ Clearinghouse Publications); and
- Telephone surveys.

The estimated annual hour burden is as follows:

Type of survey	Number of respondents	Average burden/response (hours per respondent)	Total hours of burden
Mail/Telephone Surveys	51,200	.15	7,680
Automated/ Web-based ..	52,000	.163	8,476
Focus Groups ..	200	1.0	200
Totals	103,400	.159	16,441

Request for Comments

Comments are invited on: (a) The necessity of the proposed collections; (b) the accuracy of the Agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the

collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Copies of these proposed collection plans and instruments can be obtained from the AHRQ Reports Clearance Officer (see above).

Dated: May 10, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–12754 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of Special Emphasis Panel meetings.

A Special Emphasis Panel (SEP) is a committee of experts selected to conduct scientific reviews of applications related to their areas of expertise. The committee members are drawn from a list of experts designated to serve for particular individual meetings rather than for extended fixed terms of services

Substantial segments of the upcoming SEP meetings listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to include personal information concerning individuals associated with these applications. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of SEP:* Centers of Excellence for Patient Safety Research and Practice.

Date: June 18–19, 2001 (Open on June 18 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

2. *Name of SEP:* Developmental Centers for Evaluation and Research in Patient Safety.

Date: June 20–21, 2001 (Open on June 20 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

3. *Name of SEP:* Primary Care PBRN: Competitive Continuations.

Date: July 13, 2001 (Open on July 13 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

4. *Name of SEP:* Building Research Infrastructure and Capacity (BRIC) Program.

Date: July 30–31, 2001 (Open on July 30 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

5. *Name of SEP:* Clinical Informatics to Promote Patient Safety RFA.

Date: August 2–3, 2001 (Open on August 2 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

6. *Name of SEP:* Improving Patient Safety: Health Systems Reporting, Analysis and Safety Improvement Research Demonstrations.

Date: August 6–7, 2001 (Open on August 6 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

7. *Name of SEP:* Patient Safety Research Dissemination and Education.

Date: August 16–17, 2001 (Open on August 16 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

8. *Name of SEP:* The Effect of Health Care Working Conditions on Quality of Care.

Date: August 23–24, 2001 (Open on August 23 from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: Four Point Sheraton Hotel, 8400 Wisconsin Avenue, Conference Room TBD, Bethesda, Maryland 20814.

Contact Person: Anyone wishing to obtain a roster of members of minutes of these meetings should contact Ms. Jenny Griffith, Committee management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1847.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: May 14, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–12753 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Award of Non-Competitive Grant

AGENCY: Administration on Children, Youth and Families (ACYF) Administration for Children and Families (ACF), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Notice is hereby given that ACYF will award grant funds without competition to Western Kentucky University Head Start Quality Improvement Center (QIC) in the amount of $300,000. This award is made to the QIC to further the provision of technical assistance services nationally to grantees and regional offices when they undertake the purchase, construction or major renovation of Head Start program facilities. The award will be made for the budget period beginning September 1, 2001 for a twelve month period, under existing grant award 90YQ0016.

Authority: This award will be made pursuant to the Head Start Act, amended, 42 U.S.C. 9801 et seq. (CFDA 93.600)

FOR FURTHER INFORMATION CONTACT: Douglas Klafehn, Acting Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, 330 C Street SW, Washington, D.C. 20447; (202) 205–8572.

Dated: May 15, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–12684 Filed 5–18–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Safety Research: Availability of Cooperative Agreements; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of research funds for fiscal year (FY) 2001 to support research in the following areas: Analytical detection of bovine spongiform encephalopathy and other transmissible spongiform encephalopathies (BSE/TSE) in FDA-regulated products, consumer refrigeration storage length practices for unopened and opened packages of ready-to-eat foods, microbial contamination of agricultural water, and transfer coefficients to describe the potential for *Listeria* cross-contamination in the retail environment. Approximately $700,000 will be available in FY 2001. FDA anticipates making up to four awards of $100,000 to $200,000 (direct plus indirect costs) per award per year. Support of these agreements may be up to 3 years. Budgets for all years requested may not exceed $200,000 (direct plus indirect costs). Any application received that exceeds this amount will not be considered responsive and will be returned to the applicant without being reviewed. The number of agreements funded will depend on the quality of the applications received and the availability of Federal funds to support the projects. After the first year, additional years of noncompetitive support are predicated upon performance and the availability of Federal funds.

DATES: Submit applications by July 5, 2001.

ADDRESSES: Completed applications should be submitted to: Maura C. Stephanos, Grants Management Specialist, Grants Management Staff (HFA–520), Division of Contracts and Procurement Management, Food and Drug Administration, 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7183, FAX 301–827–7106, e-mail: mstepha1@oc.fda.gov. (Applications hand-carried or commercially delivered should be addressed to rm. 2129, 5630 Fishers Lane, Rockville, MD 20857).

Application forms are available either from Maura C. Stephanos (address above) or via the Internet at http://grants.nih.gov/grants/funding/phs398/phs398.html. NOTE: Do not send applications to the Center for Scientific Research (CSR), National Institutes of Health (NIH).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Maura C. Stephanos (address above).

Regarding the programmatic aspects of this notice: John W. Newland, Microbial Research Coordinator, Office of Science (HFS–32), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–0536, e-mail: john.newland@cfsan.fda.gov.

SUPPLEMENTARY INFORMATION: FDA will support the research studies covered by this notice under section 301 of the Public Health Service Act (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103.

The Public Health Service (PHS) strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

FDA is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010,'' a national effort to reduce morbidity and mortality and to improve quality of life. Applicants may obtain a hard copy of the ''Healthy People 2010'' objectives, vols. I and II, conference edition (B0074) for $22 per set, by writing to the Office of Disease Prevention and Health Promotion (ODPHP) Communication Support Center (Center), P.O. Box 37366, Washington, DC 20013–7366. Each of the 28 chapters of ''Healthy People 2010'' is priced at $2 per copy. Telephone orders can be placed at the Center on 301–468–5690. The Center also sells the complete conference edition in CD–ROM format (B0071) for $5. This publication is available as well on the Internet at http://health.gov/healthypeople. Internet viewers should proceed to ''Publications.''

I. Background

FDA is committed to reducing the incidence of foodborne illness to the greatest extent feasible. Research in food safety seeks to reduce the incidence of foodborne illness by improving our ability to detect and enumerate pathogens in the food supply and to find new and improved ways to control them. The Center for Food Safety and Applied Nutrition (CFSAN) supports multiyear cooperative agreements intended to help achieve the goal of reducing the incidence of foodborne illness. President Clinton's food safety initiative (FSI) inaugurated this extramural program that supports a novel collaborative research effort between CFSAN and academic scientists, and leveraged expertise not found within FDA, to complement and accelerate ongoing research. Collaborations such as these provide information critical to food safety guidance and policymaking, and stimulate fruitful interactions between FDA scientists and those within the greater research community.

In continuation of this effort CFSAN/FSI will provide FY 2001 funds to be used for research to help ensure the agency has the following capacities: To detect the presence of human pathogens that may become present in FDA regulated products; to more fully understand how consumer practices in the handling of ready-to-eat food products may affect their microbiological safety; to obtain a more precise understanding of the potential for cross contamination by *Listeria monocytogenes* between foods and food contact surfaces; and to understand mechanisms of microbial contamination of agricultural water that subsequently result in the occurrence of pathogens on raw produce.

II. Research Goals and Objectives

Proposed projects designed to fulfill the specific objectives of any one of the following requested projects will be considered for funding. Applications may address only one project and its objectives per application. However, applicants may submit more than one application for more than one project. The projects and their objectives are as follows.

A. Project 1: Analytical Detection of Bovine Spongiform Encephalopathy and Other Transmissible Spongiform Encephalopathies (BSE/TSE) in Products Regulated by CFSAN

The objective of this project is the development of a practical analytical technique for the detection of the BSE/TSE infective agent in products regulated by CFSAN (i.e., foods, including infant formula, dietary supplements, and cosmetics). Diagnostic tests to detect the BSE/TSE infective agent in a variety of FDA regulated products are currently unavailable. FDA's high priority products include milk and dairy products, food grade gelatin, dietary supplements, and foods containing beef at less than 3 percent. This research will provide detection methodology critical to support food surveillance programs designed to keep BSE and other TSEs out of U.S. foods, cosmetics, and dietary supplements.

B. Project 2: Consumer Refrigeration Storage Length Practices for Unopened and Opened Packages of Ready-to-Eat Foods

The objective of this project is to understand more fully how consumer practices in the handling of ready-to-eat food products may affect the microbiological safety of these foods. Values that were used in the Department of Health and Human Services (DHHS)/U.S. Department of Agriculture (USDA) draft *Listeria monocytogenes* risk assessment to estimate time of storage in the home before consumption were largely based on expert opinion. The agency seeks to improve the estimates of risk associated with consumer storage practices through survey data on the storage of ready-to-eat foods (as specified in the draft risk assessment, see http://www.foodsafety.gov) in home refrigerators. Proposed investigations should focus on the duration of refrigerated storage of unopened and opened food packages of ready-to-eat foods.

C. Project 3: Microbial Contamination of Agricultural Water

The objective of this project is to understand mechanisms of microbial contamination of agricultural water that subsequently result in the occurrence of pathogens on raw produce. In produce-related outbreak investigations and produce pathogen surveys agricultural water quality has been repeatedly identified as a potential source of microbial pathogen contamination. Farm investigations have found examples where water used for agriculture purposes was contaminated by raw human or animal waste. There are no guidelines for microbiological criteria for water used in agriculture. Research must specifically focus on characterizing the role of agricultural water on pathogen (and possibly fecal indicator) occurrence, survival, propagation, and attachment to raw produce. The effects of farm production practices, such as spray and furrow irrigation and pesticide applications, on microbial pathogen occurrence, survival, propagation, and attachment should also be addressed. Applications should include the following pathogens of concern, *Salmonella*, *Shigella*, *Escherichia coli* O157:H7, and *Cyclospora*.

D. Project 4: Transfer Coefficients to Describe the Potential for Listeria Cross-Contamination in the Retail Environment

The objective of this project is to quantify the potential for *Listeria* cross-contamination in the retail environment. The presence of *Listeria* in ready-to-eat foods is well established. Specific information is lacking, however, about the mechanism(s) and frequency of cross-contamination within the retail and food service environment, especially in food preparation and dispensing areas. Information is needed about the potential for transfer from microbially contaminated food to soiled and unsoiled surfaces, from microbially contaminated surfaces (soiled and unsoiled) to food, and the potential involvement of surface biofilms on cross-contamination potential. Specifically, this transfer potential should be quantified and expressed as transfer coefficients that apply to *Listeria* cross contamination that occurs within the retail environment.

III. Human Subject Protection and Informed Consent

A. Protection of Human Research Subjects

Some activities carried out by a recipient under this announcement may be governed by DHHS regulations for the protection of human research subjects (45 CFR part 46), as well as by the FDA Risk in Human Subjects Committee (RIHSC) (21 CFR parts 50 and 56). These regulations require recipients to establish procedures for the protection of subjects involved in any research activities. Prior to funding and upon request of the Office for Human Research Protection (OHRP) (formerly the Office for Protection from Research Risks (OPRR), prospective recipients must have on file with OHRP an assurance to comply with 45 CFR part 46. This assurance to comply is called an assurance document. It includes the designated institutional review board (IRB) for review and approval of procedures for carrying out any research activities occurring in conjunction with this award. If an applicable assurance document for the applicant is not already on file with OHRP, a formal request for the required assurance will be issued by OHRP at an appropriate point in the review process, prior to award, and examples of required materials will be supplied at that time. No applicant or performance site without an approved and applicable assurance on file with OHRP may spend funds on human subject activities or accrue subjects. No performance site, even with an OHPR-approved and applicable assurance, may proceed without approval by OHRP of an applicable assurance for the recipients. Applicants may wish to visit the OHRP website at http://ohrp.osophs.dhhs.gov to obtain preliminary guidance on human subject issues. Applicants wishing to contact OHRP should provide their institutional affiliation, geographic location, and all available request for applications (RFA) citation information.

Applicants are advised that the section on human subjects in the application kit entitled ''Section C. Specific Instructions—Forms, Item 4, Human Subjects,'' on pages 7 and 8 of the application kit, should be carefully reviewed for the certification of IRB approval requirements. Documentation of IRB approval for every participating center is required to be on file with the grants management officer, FDA. The goal should be to include enough information on the protection of human subjects in a sufficiently clear fashion so reviewers will have adequate material to make a complete review. Those approved applicants who do not have a current multiple project assurance with OHRP will be required to obtain a single project assurance from OHRP prior to award.

B. Informed Consent

Consent and/or assent forms, and any additional information to be given to a subject, should accompany the application. Information that is given to the subject or the subject's representative must be in language that the subject or his or her representative can understand. No informed consent, whether oral or written, may include any language through which the subject or the subject's representative is made to waive any of the subject's legal rights, or by which the subject or representative releases or appears to release the investigator, the sponsor, or the institution or its agent from liability.

If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

C. Elements of Informed Consent

The regulations on informed consent are set forth in 45 CFR 46.116 and 21 CFR 50.25. The basic elements of informed consent are as follows:

1. Basic Elements of Informed Consent

In seeking informed consent, the following information shall be provided to each subject:

• A statement that the study involves research, an explanation of the purposes

of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental.

• A description of any reasonably foreseeable risks or discomforts to the subject.

• A description of any benefits to the subject or to others which may reasonably be expected from the research.

• A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject.

• A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained, and that notes the possibility that FDA may inspect the records.

• For research involving more than minimal risk, an explanation as to whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of or where further information may be obtained.

• An explanation of whom to contact for answers to pertinent questions about the research and research subject's rights, and whom to contact in the event of research-related injury to the subject.

• A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Additional Elements of Informed Consent

When appropriate, one or more of the following elements of information shall also be provided to each subject.

• A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable.

• Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent.

• Any costs to the subject that may result from participation in the research.

• The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

• A statement that significant new findings developed during the course of the research that may relate to the subject's willingness to continue participation will be provided to the subject.

• The approximate number of subjects involved in the study.

• The informed consent requirements are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

• Nothing in the notice is intended to limit the authority of a physician to provide emergency medical care to the extent that a physician is permitted to do so under applicable Federal, State, or local law.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of cooperative agreements. These cooperative agreements will be subject to all policies and requirements that govern the research grant programs of PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program. The NIH modular grant program does not apply to this FDA program.

B. Eligibility

These cooperative agreements are available to any public or private nonprofit entity (including State and local units of government) and any for-profit entity. For-profit entities must commit to excluding fees or profit in their request for support to receive awards. Organizations described in section 501(c)(4) of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive awards.

C. Length of Support

The length of support will be for up to 3 years. Funding beyond the first year will be noncompetitive and will depend on:

1. Satisfactory performance during the preceding year, and

2. Availability of Federal FY funds.

V. Reporting Requirements

Annual financial status reports (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's grants management officer (address same as given above for grants management specialist) within 90 days of the budget expiration date of the cooperative agreement. Failure to file the FSR on time may be grounds for suspension or termination of the agreement. Program progress reports will be required quarterly and will be due 30 days following each quarter of the applicable budget period except that the fourth quarterly report which will serve as the annual report and will be due 90 days after the budget expiration date. For continuing agreements, an annual program progress report is also required. Submission of the noncompeting continuation application (PHS 2590) will be considered as the annual program progress report. The recipient will be advised of the suggested format for the program progress report at the time an award is made. In addition, the principal investigator will be required to present the progress of the study at an annual FDA extramural research review workshop in Washington, DC. Travel costs for this requirement should be specifically requested by the applicant as part of their application. A final FSR, program progress report and invention statement, must be submitted within 90 days after the expiration of the project period, as noted on the notice of grant award.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least quarterly by the project officer and the project advisory group. Project monitoring may also be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator and/or a site visit with appropriate officials of the recipient organization. A record of these monitoring activities will be duly recorded in an official file specific for each cooperative agreement and may be available to the recipient of the cooperative agreement upon request.

VI. Delineation of Substantive Involvement

Inherent in the cooperative agreement award is substantive involvement by the awarding agency. Accordingly, FDA will have a substantive involvement in the programmatic activities of all the projects funded under this RFA. Substantive involvement includes but is not limited to the following:

1. FDA will provide guidance and direction with regard to the scientific approach and methodology that may be used by the investigator.

2. FDA will participate with the recipient in determining and executing any: (a) Methodological approaches to be used, (b) procedures and techniques to be performed, (c) sampling plans proposed, (d) interpretation of results, and (e) microorganisms and commodities to be used.

3. FDA will collaborate with the recipient and have final approval on the experimental protocols. This collaboration may include protocol

design, data analysis, interpretation of findings, coauthorship of publications and the development and filing of patents.

VII. Review Procedure and Criteria

A. Review Method

All applications submitted in response to this RFA will first be reviewed by grants management and program staff for responsiveness. Applications will be considered not responsive if they are not in compliance with sections VII.B and VIII of this document. If applications are found to be not responsive to this announcement they will be returned to the applicant without further consideration.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application.

Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence with the recommendations made by the first level reviewers. Final funding decisions will be made by the Commissioner of Food and Drugs or his/her designee.

B. Review Criteria

Applicants must clearly state in their application for which of the requested projects they are applying. Applications will be reviewed, and ranked. There is no assurance that awards will be made in all projects. Funding will start with the highest ranked application, and additional awards will be made based on the next highest ranking application, etc., until all available funds have been exhausted. All applications will be evaluated by program and grants management staff for responsiveness. Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or scientific nature should be directed to the CFSAN program staff, and all questions of an administrative or financial nature should be directed to the grants management staff. (See the **FOR FURTHER INFORMATION CONTACT** section at the beginning of this document for addresses.)

All applications will be reviewed and scored on the following criteria:

1. Soundness of the scientific rationale for the proposed study and appropriateness of the study design and its ability to address all of the objectives of the RFA;

2. Availability and adequacy of laboratory facilities, equipment, and support services, e.g., biostatistics computational support, databases, etc.;

3. Research experience, training, and competence of the principal investigator and support staff, and;

4. Whether the proposed study is within the budget guidelines and proposed costs have been adequately justified and fully documented.

VIII. Submission Requirements

The original and two copies of the completed grant application form PHS 398 (Rev. 4/98) or the original and two copies of PHS 5161–1 (Rev. 7/00) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Maura C. Stephanos (address above). State and local governments may choose to use the PHS 398 application form in lieu of PHS 5161–1. The application receipt date is July 5, 2001. No supplemental or addendum material will be accepted after the receipt date. The outside of the mailing package and item 2 of the application face page should be labeled: ''Response to RFA–FDA–CFSAN–01–3, Project 1, 2, 3 or 4.''

IX. Method of Application

A. Submission Instructions

Applications will be accepted during normal business hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. (Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.) Do not send applications to CSR, NIH. Any application that is sent to NIH, that is then forwarded to FDA and not received in time for orderly processing will be deemed not responsive and returned to the applicant. Applications must be submitted via mail or hand delivery as stated above. FDA is unable to receive applications electronically. Applicants are advised that FDA does not adhere to the page limitations or the type size and line spacing requirements imposed by NIH on its applications.

B. Format for Application

Submission of the application must be on grant application form PHS 398 (Rev. 4/98) or PHS 5161–1 (Rev. 7/00). All ''General Instructions'' and ''Specific Instructions'' in the application kit should be followed with the exception of the receipt dates and the mailing label address.

The face page of the application should reflect the request for applications number, RFA–FDA–CFSAN–01–3, Project 1, 2, 3, or 4. Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on Form PHS 398 and the instructions have been submitted by PHS to the Office of Management and Budget (OMB) and were approved and assigned OMB control number 0925–0001. The requirements requested on Form PHS 5161–1 were approved and assigned OMB control number 0348–0043.

C. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application that have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be used or disclosed except for evaluation purposes.

Dated: May 15, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12623 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Innovative Food Safety Projects; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Regulatory Affairs (ORA), Division of Federal-State Relations (DFSR) is

announcing the availability of grant funds for the support of an innovative food safety program. Approximately $200,000 will be available in fiscal year 2001. FDA anticipates making at least four awards, not to exceed $50,000 (direct and indirect costs combined) per award per year. Support of these grants will be for 1 year. The number of grants funded will depend on the quality of the applications received and the availability of Federal funds to support the grant. These grants are not intended to fund or conduct food inspections.

DATES: Submit applications by July 5, 2001.

ADDRESSES: Application forms are available from, and completed applications should be submitted to Cynthia M. Polit, Grants Management Office, Food and Drug Administration (HFA–520), 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7180, e-mail: cpolit@oc.fda.gov. Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857. Application forms PHS–5161–1 (7/00) are available via the Internet at: http://www.psc.gov/forms (revised 7/00).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Cynthia M. Polit (address and telephone number given above).

Regarding the programmatic aspects of this notice: Paul M. Raynes or Anne Hope Scott, Division of Federal-State Relations (HFC–150), Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, rm. 12–07, Rockville, MD 20857, 301–827–6906. Internet site: http://www.fda.gov/ora/fed__state/default.htm.

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA will support projects covered by this notice under section 1701 [300u] of the Public Health Service Act (42 U.S.C. 241). FDA's project program is described in the Catalog of Federal Domestic Assistance, No. 93.245 and applicants are limited to food safety regulatory agencies of State and local governments. FDA strongly encourages all award recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the FDA mission to protect and advance the physical and mental health of the American people.

FDA urges applicants to submit work plans that address specific objectives of ''Healthy People 2010.'' Potential applicants may obtain a copy of ''Healthy People 2010'' (full report, stock No. 017–001–00547–9) through Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, 202–512–1800.

II. Background

ORA is the inspection component of FDA and has some 1,100 investigators and inspectors who cover the country's approximately 95,000 FDA-regulated businesses. These investigators inspect more than 15,000 facilities a year. In addition to the standard inspection program, they conduct special investigations, food inspection recall audits, perform consumer complaint inspections and sample collections. FDA has relied on the States in assisting with the above duties through formal contracts, partnership agreements, and other informal arrangements. Under the Food Safety Initiative (FSI), the demands on both the agency and the States will increase. Procedures need to be reviewed and innovative changes made that will increase effectiveness and efficiency and conserve resources. ORA will support FSI by providing: (1) Effective and efficient compliance of regulatory products, and (2) high quality, science-based work that results in maximizing consumer protection.

Under FSI, FDA is mandated to develop innovative food safety programs that would be utilized nationally by State and local food safety regulatory agencies. Even though the American food supply is among the safest in the world, millions of Americans are stricken by illness each year caused by the food they consume, and some 7,000 Americans a year, primarily the very young and elderly, die as a result. The goal of FSI is to further reduce the incidence of foodborne disease to the greatest extent possible. Innovative food safety programs that are developed at the State and local levels and have national implication could enhance programs that are developed at the Federal level.

A. Project Goals, Definitions, and Examples

The specific objective of this program will be to complement, develop, or improve State and local food safety programs that would have applicability to food safety programs nationwide. Applications that fulfill the following specific project objectives will be considered for funding. Each application must address only one project. Applicants may apply for more than one project area, but must submit a separate application for each project. These grants are not to fund or conduct food inspections for food safety regulatory agencies. Applications relating to the retail food program area should be applicable to program improvement processes for FDA's draft entitled ''Recommended National Retail Food Regulatory Program Standards'' (http://vm.cfsan.fda.gov/dms/ret-toc.html) (see review criteria).

There are two key project areas identified for this effort:

1. Inspection

Development of innovative regulatory inspection methods or techniques for the inspection process of various food establishments in order to improve effectiveness and efficiency. Innovative regulatory program methodology projects must demonstrate an effect on factors which contribute to foodborne illness in all, or a segment of, food industry programs. For example, projects could address key elements from the draft entitled ''Recommended National Retail Food Regulatory Program Standards,'' such as the five Food Code interventions (management knowledge, employee health, hands as a vehicle of contamination, time/temperature relationships, and consumer advisory), or the five Centers for Disease Control and Prevention risk factors (improper holding temperature, inadequate cooking, contaminated equipment, unsafe source, and poor personal hygiene). Other examples of projects in this area could include prevention and control of *Listeria monocytogenes* in retail and food service environments and projects that address shell egg safety, such as refrigeration, safe handling, or labeling. The goal of these projects should be to achieve efficient and effective compliance with regulations that impact contributing factors to foodborne illness.

2. Education and Health Information Dissemination

Development of innovative education projects and materials for State and local food safety regulatory officials that foster consistency and uniform application of State and local food regulations. These education projects and/or materials must be reproducible by other State and local food safety regulatory agencies. These projects may incorporate concurrent education of both State and local food safety regulatory agencies and the food industry.

B. Applicability

All grant application projects that are developed at State and local levels *must* have national implication or application

that can enhance Federal, State, and local food regulatory programs and reduce factors that cause foodborne illness. At the discretion of FDA, successful project formats will be made available to interested Federal, State, and local food safety regulatory agencies. No grant will be awarded for projects that do not support the FDA Food Code.

III. Reporting Requirements

Semiannual progress reports as well as a final program progress report and a final financial status report (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's grants management officer within 90 days of the expiration date of the grant. The final program progress report must provide full written documentation of the project, copies of any results, as described in the grant application, and an analysis and evaluation of the results of the project. The documentation must be in a form and contain sufficient detail that other State and local food safety regulatory agencies could reproduce the final project.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least semiannually by the project officer. Project monitoring may also be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator and/or a site visit with appropriate officials of the recipient organization. The results of these monitoring activities will be duly recorded in the official file and may be available to the recipient upon request.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of a grant. These grants will be subject to all policies and requirements that govern the project grant programs of FDA, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 also apply to this program and are implemented through Department of Health and Human Services (DHHS) regulations at 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than federally recognized Indian tribal governments) should contact the State's single point of contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. A current listing of SPOCs is included in the application kit. The SPOC should send any State review process recommendations to FDA's administrative contact (address listed above). The due date for the State process recommendations is no later than 60days after the deadline date for the receipt of applications. FDA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

B. Eligibility

This grant program is only available to State and local government food regulatory agencies and federally recognized Indian tribal governments. (See SPOC requirements stated in section IV. A of this document.)

C. Length of Support

The length of support will be for 1 year from date of award.

V. Review Procedure and Criteria

All applications submitted in response to this request for application (RFA) will first be reviewed by grants management and program staff for responsiveness. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration. An application will be considered nonresponsive if any of the following criteria are not met: (1) If it is received after the specified receipt date; (2) if the total dollar amount requested exceeds $50,000; (3) if all required signatures are not on the face page or assurance pages of the application; (4) if there is no original signature copy; (5) if it is illegible; (6) if the material presented is insufficient to permit an adequate review; or (7) if the application demonstrates an inadequate understanding of the intent of the RFA.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Applications will be considered for funding on the basis of their overall technical merit as determined through the review process. Other award criteria will include availability of funds and overall program balance in terms of geography. Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence with the recommendations made by the first level reviewers. Final funding decisions will be made by the Commissioner of Food and Drugs or his/her designee.

Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or programmatic nature must be directed to ORA's program staff (address above) and all questions of an administrative or financial nature must be directed to the grants management staff (address above). Applications will be given an overall score and judged based on all of the following criteria:

1. Applications relating to the retail food program (http://vm.cfsan.fda.gov/dms/ret-toc.html) only: The outcomes of the project should be applicable to program improvement process for FDA's draft entitled ''Recommended National Retail Food Regulatory Program Standards'' (http://vm.cfsan.fda.gov/dms/ret-toc.html). These standards will serve as a guide to regulatory retail food program managers for the design and management of a regulatory retail food program. The standards apply to the operation, management, and promotion of a regulatory retail food program focused on the reduction of risk factors known and suspected to cause foodborne illness. FDA's draft entitled ''Recommended National Retail Food Regulatory Program Standards'' is found on the Internet site at http://www.cfsan.fda.gov/dms/ret-toc.html or contact your local FDA regional retail food specialist from the list provided in the application packet.

2. Application budgets must remain within the $50,000 cap for combined direct and indirect costs. Applications exceeding this dollar amount will be returned as nonresponsive.

3. Applications must provide in detail, a sound rationale and appropriate grant design to address the objectives of RFA and the project must be reproducible within the national regulatory framework.

4. Applications must include a detailed explanation of the desired goals and outcomes of the project.

5. Applications must include a full description of the project design, a detailed implementation plan, methods of execution, and timeline for completion. The application must include a detailed description of measures of effectiveness and a description of the source documents or data collection methods for establishing the baseline for measurement.

6. Applications must address the adequacy of facilities, expertise of project staff, equipment, databases, and support services needed for the project.

VI. Submission Requirements

The original and two copies of the completed grant application form PHS–5161–1 (revised 7/00) for State and local governments, with copies of the

appendices for each of the copies, should be delivered to Cynthia M. Polit (address above). The application receipt date is July 5, 2001. If the receipt date falls on a weekend, or if the date falls on a holiday, the date of submission will be extended to the following workday. No supplemental or addendum material will be accepted after the receipt date.

The outside of the mailing package and item 2 of the application face page should be labeled ''Response to RFA–FDA–ORA–01–Project I'' or ''RFA–FDA–ORA–01–Project II.'' Submit only one project application (an original and two copies) per package.

VII. Method of Application

A. Submission Instructions

Each application must be submitted under separate cover. Do NOT submit more than one application (with copies) per envelope. Applications will be accepted during working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.

Do not send applications to the Center for Scientific Research, National Institutes of Health (NIH). Any application that is sent to NIH, that is then forwarded to FDA and not received in time for orderly processing, will be deemed unresponsive and returned to the applicant. Instructions for completing the application are included in form PHS–5161–1. FDA is unable to receive applications via Internet.

B. Format for Application

Submission of the application must be on grant application form PHS 5161–1 (revised 7/00). All instructions for the enclosed Standard Form 424 (SF–424) should be followed using the nonconstruction application pages.

The face page of the application should indicate ''RFA–FDA–ORA–01–Project I,'' or ''RFA–FDA–ORA–01–Project II.''

Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on PHS Form 5161–1 were approved and issued under Office of Management and Budget Circular A–102.

C. Legend

Unless disclosure is required by FOIA as amended (5 U.S.C. 552), as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted and/or proprietary information shall not be used or disclosed except for evaluation purposes.

Dated: May 15, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12626 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0103]

Issues Associated With the Intersection of 180-Day Generic Drug Exclusivity and Pediatric Exclusivity; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is establishing the public docket identified in brackets in the heading of this document to receive comments related to the interpretation of provisions of the Federal Food, Drug, and Cosmetic Act (the act) and regulations governing the intersection of 180-day generic drug exclusivity and pediatric exclusivity. To date, there has not been a situation where pediatric exclusivity and 180-day generic exclusivity have actually overlapped. However, FDA has received a large number of inquiries about its interpretation of these provisions and, therefore, is establishing this docket to give the public an opportunity to comment on these issues.

DATES: Submit written or electronic comments by June 20, 2001.

ADDRESSES: Submit electronic comments to http://www.fda.gov/ohrms/dockets/default.htm. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rose Cunningham, Center for Drug Evaluation and Research (HFD–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5468, FAX 301–594–5493.

SUPPLEMENTARY INFORMATION:

I. Background

Recently FDA has been asked to evaluate the intersection of 180-day generic drug exclusivity and pediatric exclusivity, specifically with respect to whether the exclusivity periods should run concurrently or consecutively. FDA has received written correspondence and telephone inquiries from pharmaceutical firms, organizations, individuals, and members of Congress concerning FDA's interpretation of these provisions. FDA is seeking broader public comment on the intersection of these two statutory provisions.

The 180-day generic drug exclusivity provision was created by the 1984 Drug Price Competition and Patent Term Restoration Act (also known as the Hatch-Waxman Amendments), enacted on September 24, 1984. This provision, contained in section 505(j)(5)(B)(iv) of the act (21 U.S.C. 355(j)(5)(B)(iv)), provides an incentive for generic drug applicants to challenge innovator patent claims and thereby speed the entry of generic competition onto the market. This benefit is available to the first abbreviated new drug application (ANDA) received that is a substantially complete application that contains a ''paragraph IV'' certification. This type of certification states the ANDA applicant's belief that a patent listed for the innovator drug is invalid or unenforceable or that the ANDA product seeking approval will not infringe a listed patent. Under the terms of the statute, 180-day generic drug exclusivity is triggered by and begins to run from either: (1) A court decision finding the challenged patent invalid, unenforceable, or not infringed; or (2) the date of first commercial marketing of the ANDA drug product, whichever is earlier. During the 180-day generic drug exclusivity period, FDA is prohibited

from approving a subsequently filed ANDA containing a paragraph IV certification.

Pediatric exclusivity was created by the passage of the Food and Drug Administration Modernization Act, enacted on November 21, 1997. This provision, contained in section 505A of the act, provides an incentive for innovator companies to perform and submit to the agency pediatric studies that may produce health benefits in the pediatric population. This benefit is available to a new drug application holder for the submission of pediatric studies in response to a written request issued by the agency. Pediatric exclusivity extends for 6 months existing patent and/or exclusivity protection on the innovator drug and begins to run on the date the existing patent and/or exclusivity protection on the innovator drug would otherwise expire. ANDAs referencing the innovator drug may not be approved during the pediatric exclusivity period.

FDA seeks public comment on whether pediatric exclusivity runs concurrently or consecutively with 180-day generic drug exclusivity when a favorable court decision in a paragraph IV patent challenge lawsuit is issued less than 180 days before the beginning of or during the pediatric exclusivity period.

II. Request for Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments by June 20, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 14, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12615 Filed 5–15–01; 4:12 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0197]

Clinical Development Programs for Drugs, Biological Products, and Devices for the Treatment of Ankylosing Spondylitis (AS) and Related Disorders; Request for Assistance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting assistance in developing guidance for industry on issues related to drugs, biological products, and devices for the treatment of AS and related disorders. Once finalized, the guidance would aid sponsors and others interested in developing new agents to treat AS and related disorders.

Before the agency can develop such guidance, a critical appraisal of certain fundamentals of the science related to AS is needed. FDA is interested specifically in identifying a party, or parties, willing to take the lead in coordinating this critical appraisal.

DATES: Submit written comments on this notice by July 20, 2001.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mary Jane Walling, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2268.

SUPPLEMENTARY INFORMATION: Because of the positive response to the agency's guidance on rheumatoid arthritis, the agency has recognized the need for more information on the development of drugs, biological products, and devices for the treatment of AS and related disorders. FDA intends to put the information received in response to this notice in a public docket so that interested parties can learn of each other and coordinate these activities.

Specifically, the agency is interested in identifying an interested group or consortium of interested groups from academia, industry, practitioners, and patients and their representatives willing to take the lead in a critical appraisal of certain fundamentals of the science related to AS. Initially, the parties may want to organize a public meeting to discuss relevant questions (a number of which are noted below). The agency hopes this meeting will lead to conceptual advances now not present and their expression in a series of concept papers. Subsequent workshops would then be able to fully discuss these concept papers, soliciting feedback from all quarters including regulators from the United States and elsewhere. Emphasis should be on debating the rationale for various approaches to key issues. The agency welcomes other suggestions of activities that could be undertaken as part of this guidance development effort.

To provide a starting point for discussion, the agency has developed a list of some key concepts that the interested parties may want to consider at the meeting:

1. Scope: Should the guidance discuss AS alone, or a broader spondyloarthropathy rubric? What about the clinical subgroups and pediatric expressions of the disorder(s)?

2. Claims: What type of claims structure is optimal to encompass the types of clinical benefit a therapeutic product might have on patients with AS? What type of evidence would be needed to support each proposed claim?

3. Measures of disease activity: Are currently available instruments for measuring disease activity adequate or are new measures required? Which disease activity should be measured in clinical trials in AS, and on what basis: (1) A consensus approach, which aims for agreement (clinicians, patients, and others) based on a blend of an observer-driven approach and performance characteristics; (2) a decision based on the comparative statistical characteristics of each measurement using concepts such as random measurement error; or (3) a fully data-driven approach where each measurement is tested in a standard venue to assess its predictive capacity.

4. Overall trial design: Are longitudinal comparison of means optimal? Because longer trials inevitably have substantial dropouts, would a survival analysis be more appropriate?

5. Intrinsic trial design: Which measures should be included in the primary analysis of the clinical trial to assess whether the therapeutic product is associated with a clinical benefit? Do all measures need equal-weight in the primary analysis? Can they be unequally weighted? Is the use of composites justified? Are outcomes of secondary endpoints essential for determining the success of the trial?

Interested persons should submit to the Dockets Management Branch (address above) comments and

expressions of interest in taking a lead in a critical appraisal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 11, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–12625 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0193]

Medical Devices Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers.'' This draft guidance document provides specific recommendations on data and information medical device manufacturers should submit in premarket notifications (510(k)s) for biological indicators intended to monitor sterilizers used in health care facilities. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written comments on the draft guidance by August 20, 2001.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled ''Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

FDA regulates biological indicators intended to monitor sterilizers used in health care facilities as class II medical devices, requiring premarket notification (510(k)). The effective performance of sterilizers used in health care facilities is important to prevent nosocomial infections. Biological indicators provide users with information on the effectiveness of the sterilization process. This draft guidance document recommends the kind of data and information you should submit in a 510(k) for these devices. The use of comprehensive, scientifically sound review criteria helps ensure the safety and effectiveness of these devices. FDA recognizes that providing FDA reviewers, 510(k) applicants, and other interested parties information on its review process can promote a consistent and efficient regulatory process.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on premarket notifications (510(k)) for biological indicators intended to monitor sterilizers used in health care facilities. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This draft guidance document is issued as a Level 1 guidance consistent with the GGP regulations.

III. Electronic Access

In order to receive ''Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1320) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. ''Premarket Notifications [510(k)] for Biological Indicators Intended to Monitor Sterilizers Used in Health Care Facilities; Draft Guidance for Industry and FDA Reviewers'' is also available at http://www.fda.gov/cdrh/ode/guidance/1320.pdf. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft guidance by August 20, 2001. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 8, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–12624 Filed 5–18–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; National Institutes of Health Undergraduate Scholarship Program for Individuals From Disadvantaged Backgrounds

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director, National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 27, 2001, page 12529, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The NIH may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995 unless it displays a currently valid OMB control number.

Proposed Collection

Title: National Institutes of Health Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds. *Type of Information Collection Request:* Revision. *Form Numbers:* NIH 2762–1, NIH 2762–2, NIH 2762–3, NIH 2762–4, and NIH 2762–5. *Need and Use of Information Collection:* The NIH Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds (UGSP) requires participants to maintain enrollment in an undergraduate degree program and to begin service payback through employment at the NIH within 60 days of their graduation. The NIH is proposing to modify the current information collection by adding NIH Form 2762–5 to allow individuals to defer their service payback obligation. This information collection certifies that scholars are continuing their undergraduate program and provides those who have graduated the opportunity to request a deferment of their service payback obligation if they are enrolled in an approved graduate or medical degree program. *Frequency of response:* Annual. *Affected public:* Individuals and Academic Institutions. *Types of Respondents:* Participants in the UGSP and Academic Institutions (undergraduate, graduate, and medical schools). The annual reporting burden in as follows: *Estimated Number of Respondents:* 1,330; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 1.298; and *Estimated Total Annual Burden Hours Requested:* 1,727. The annualized cost to respondents is estimated at $30,036.33. There are no Capital Costs to report. There are no Operating Costs or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Frequency of response	Average burden hours per response	Annual hour burden
Applicant	250	1.0	3.167	791.75
Recommender	750	1.0	1.000	750.00
Financial Aid Staff	250	1.0	0.500	125.00
UGSP Participant	40	1.0	0.750	30.00
Registrar Staff	40	1.0	0.750	30.00
Totals	1,330			1,726.75

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Marc S. Horowitz, J.D., Director, Office of Loan Repayment and Scholarship, NIH, 2 Center Drive, Room 2E28, MSC 0230, Bethesda, MD 20892–0230 or call toll-free 1–800–528–7689, or e-mail your request, including your address to: <*MHorowitz@nih.gov*>.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received on or before June 20, 2001.

Dated: May 15, 2001.

Yvonne T. Maddox,

Acting Deputy Director, NIH.

[FR Doc. 01–12667 Filed 5–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Confidentiality of Alcohol and Drug Abuse Patient Records—(OMB No. 0930–0092, Extension, no change)—Statute (42 USC 290dd–2) and regulations (42 CFR Part 2) require Federally conducted, regulated, or directly or indirectly assisted alcohol and drug abuse programs to keep alcohol and drug abuse patient records confidential. Information requirements

are (1) written disclosure to patients about Federal laws and regulations that protect the confidentiality of each patient, and (2) documenting ''medical personnel'' status of recipients of a disclosure to meet a medical emergency. The annual burden estimates for these requirements are summarized in the table below.

	Annual responses	Responses per respondents	Burden per response	Annual burden
Disclosure 42 CFR 2.22	11,250	130.175	.....	255,938
Recordkeeping 42 CFR 2.51	11,250	2	.17	3,938
Total	11,250	.....	.....	259,876

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Stuart Shapiro, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 14, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4630–C–02]

FY 2001 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development and Empowerment Programs and Section 8 Housing Voucher Assistance; Technical Corrections; Notification of E.O. 13202

AGENCY: Office of the Secretary, HUD.

ACTION: Super Notice of Funding Availability (SuperNOFA) for HUD Grant Programs; Technical Correction.

SUMMARY: On February 26, 2001, HUD published its Fiscal Year (FY) 2001 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance. This document makes certain technical corrections to the general section of the SuperNOFA and to the following programs: Housing Counseling, HOPE VI, Economic Development Initiative (EDI); Brownfields Economic Development Initiative (BEDI); Continuum of Care; Housing Opportunities for Persons With AIDS (HOPWA); Youthbuild; Resident Opportunities and Self Sufficiency (ROSS) Program, Section 202 Supportive Housing for the Elderly Program, Section 811 Supportive Housing for Persons with Disabilities Program, and Assisted Living Conversion Program. This document also extends the application due date for Tribes and Tribally Designated Housing Entities (TDHEs) applying for funding under the ROSS Capacity Building and Conflict Resolution initiative.

DATES: Except for the extension of the application due date for Tribes and Tribally Designated Housing Entities (TDHEs) applying for funding under the ROSS Capacity Building and Conflict Resolution initiative, all application due dates remain as published in the **Federal Register** on February 26, 2001.

FOR FURTHER INFORMATION CONTACT: For the Programs listed in this notice, please contact the office or individual listed in the **FOR FURTHER INFORMATION** heading in the individual program section of the SuperNOFA, published on February 26, 2001.

SUPPLEMENTARY INFORMATION: On February 26, 2001 (66 FR 11638), HUD published its Fiscal Year (FY) 2001 Super Notice of Funding Availability (SuperNOFA) for HUD's Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance. The FY 2001 SuperNOFA announced the availability of approximately $2.75 billion in HUD program funds covering 45 grant categories within programs operated and administered by HUD offices and Section 8 housing voucher assistance.

This notice published in today's **Federal Register** makes certain corrections and clarifications to the General Section of the SuperNOFA and to the funding availability announcements of the following programs: Economic Development Initiative (EDI); Brownfields Economic Development Initiative (BEDI); HOPE VI; Housing Counseling; Youthbuild; Resident Opportunities and Self Sufficiency (ROSS) Program, Assisted Living Conversion Program, Housing Opportunities for Persons With AIDS (HOPWA), Section 202 Supportive Housing for the Elderly Program and Section 811 Supportive Housing for Persons with Disabilities Program.

Summary of Technical Corrections

A summary of the technical corrections that will be made by this document are as follows: The page numbering shown in bracket identifies where the individual funding availability announcement that is being corrected can be found in the February 26, 2001 SuperNOFA, and the page numbering in parentheses identifies where the specific language that is being corrected can be found in the February 26, 2001 SuperNOFA.

General Section of SuperNOFA [Page 11636]

HUD corrects the Catalog of Federal Domestic Assistance Numbers (CFDA) for the Lead-Based Paint Hazard Control Program on the chart at page 11643 and the Healthy Homes Demonstration and Education Program at page 11644. The CFDA for the Lead-Based Paint Hazard Control Program should be 14.900. The CFDA for the Healthy Homes Demonstration and Education Program should be 14.901.

HUD also amends Section II (Requirements and Procedures Applicable to All Programs) by adding paragraph (L) to make the SuperNOFA consistent with Executive Order 13202 entitled, ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relation on Federal and Federally Funded Construction Projects'' (page 11652).

HUD also corrects Appendix A–2, List of EZs, ECs, Urban Enhanced Enterprise Communities, Strategic Planning Communities, (page 11658) to accurately reflect an Empowerment Zone in Upper Manhattan/Bronx (the Empowerment Zone was included, and the address was correct but was not identified as ''Upper Manhattan/Bronx'') and to add the Strategic Planning Community in Brooklyn (page 11661). A certification that should have been filed with an application for this strategic planning community may still be filed and will be treated as a technical deficiency.

Housing Counseling [Page 11841]

HUD amends paragraph (A)(2) of Section VIII (Application Submission Requirements) to correct the fiscal year referenced in the section. More specifically, HUD is requesting information for the fiscal year beginning October 1, 1999 and ending September 30, 2000. (See page 11849). This section is also being corrected to note that applicants that did not participate in the Housing Counseling program during FY 2000 should report their counseling workload during this period. (See page 11849). HUD is also correcting paragraph (A)(3) of Section VIII (Application Submission Requirements) to inform applicants that they do not need to use the budget worksheet that HUD has provided in the past to submit their proposed budgets. (See page 11849).

HOPE VI [Page 11913]

HUD corrects the cross reference in paragraph (B)(2)(b)(ii) of Section II (Amount Allocated). (See page 11917). HUD amends Rating Factor 2, paragraph (2)(a) of Section VI (Revitalization Application Selection Process) in which the maximum number of points under the Impact on Neighborhoods was correctly listed as totaling 7 points, but the discussion of the factor indicates that the maximum number of points ''you will receive is 4 to 6 points.'' (See page 11931). HUD also amends Rating Factor 3, paragraph (7) of Section VI (Revitalization Application Selection Process) to make it consistent with Executive Order 13202 entitled, ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relation on Federal and Federally Funded Construction Projects.'' Specifically, HUD is eliminating the current reference to union sponsored apprenticeship programs and substituting ''registered apprenticeship programs.'' The correction also defines registered apprenticeship programs as programs that have been ''registered with either a State Apprenticeship Agency recognized by the Department of Labor's Bureau of Apprenticeship and Training (BAT) or, if there is no recognized State agency, by the BAT.'' (See page 11934).

Economic Development Initiative (EDI) [Page 12015]

HUD corrects Rating Factor 2, paragraph (2)(b)of Section V (Application Selection Process) in which the maximum number of points under the Unemployment sub-factor were correctly listed as totaling 15 under ''Rating Factor 2: Distress/Extent of the Problem'', but the examples that followed incorrectly totaled a maximum of 10 points. (See page 12023).

Brownfields Economic Development Initiative (BEDI) [Page 12033]

HUD corrects section identifier errors in Rating Factor 2, Section V (The Application Selection Process) at page 12040. HUD also corrects Rating Factor 2, paragraph (2)(b) of Section V (Application Selection Process) in which the maximum number of points under the Unemployment sub-factor were correctly listed as totaling 15 under ''Rating Factor 2: Distress/Extent of the Problem'', but the examples that followed incorrectly totaled a maximum of 10 points. (See page 12040).

Youthbuild [Page 12055]

HUD corrects the asterisked footnote to line 12 of exhibit 4A, Total Youthbuild Grant Budget, (page 12071) to note that administrative costs, consistent with Section III (A)(7) of the Youthbuild NOFA (page 12058), may not exceed 10 percent of the grant award. HUD also corrects Form 2C 13a: Housing Project Certification for Residential Rental Units, cited in Section IV(E) (Application Selection Process), to publish both pages of this required form. (See page 12075).

Resident Opportunities and Self Sufficiency (ROSS) Program [Page 12081]

HUD extends the due date for Tribes and Tribally Designated Housing Entities (TDHEs) applying for funding under the ROSS Capacity Building and Conflict Resolution initiative to June 20, 2001. HUD also clarifies the eligibility requirements for Tribes and Tribally Designated Housing Entities (TDHEs) applying for funding under the ROSS Capacity Building and Conflict Resolution initiative at page 12082.

Continuum of Care Homeless Assistance [Page 12207]

HUD corrects the chart in Appendix A that addresses ''Eligible Populations'' under the Section 8 SRO program. (See, page 12218). The chart should delete the second bullet providing ''Section 8 eligible current occupants.'' This correction conforms the program to the McKinney-Vento Act, which limits eligibility to homeless individuals, and Section IV (A)(1) (Program Requirements) of the Continuum of Care Homeless Assistance NOFA at page 12212.

Housing Opportunities for Persons With AIDS (HOPWA) [Page 12223]

HUD amends Section VI(A) (Application Submission Requirements) to correct a typographical error. Item 10 should read ''Enter 14–241'' and not ''Enter 14–21.'' (See page 12235). HUD also corrects Appendix D, the HOPWA Project Information Form, to reflect the 2001 Continuum of Care competition and not the 2000 competition. (See page 12255). Specifically, Part B of the HOPWA Project Information Form requires an applicant or project sponsor to indicate whether it is seeking funding under this HOPWA competition for an activity that is duplicated in an application under the HUD Continuum of Care Homeless Assistance 2001 competition. Additionally, HUD corrects paragraph 3 of Appendix D, HOPWA Applicant Certifications to provide that ''It will *not* acquire, rehabilitate, convert, lease, repair or construct property to provide housing or commit HUD, State, local or other funds to program activities with respect to any eligible property until it has obtained HUD approval of form HUD–7015.15, ''Request for Release of Funds and Certification'' of compliance with the National Environmental Policy Act and implementing regulations at 24 CFR part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities) or, in cases where HUD has performed the environmental review, the Applicant has obtained HUD approval of the site following HUD's completion of form HUD–4128.'' (See page 12265).

Section 202 Supportive Housing for the Elderly Program [Page 12267]

HUD adds to the list of deficiencies that will be considered curable in a Section 202 application, the Exhibit 7(j), Certification of Consistency with the EZ/EC Strategic Plan (Form HUD 2990), but only in connection with applications involving sites in Brooklyn, New York, in the jurisdiction of the New York Multifamily Hub (see ''Exhibits'' under Section V on page 12276.) This change is necessary since Brooklyn was not included in the list of EZs, Ecs, Urban Enhanced Enterprise Communities, and Strategic Planning Communities for New York, New York in Appendix A–2 to the General Section of the SuperNOFA. As a result, applicants, proposing sites in this location will not otherwise have had sufficient time to obtain the necessary signature on Exhibit 7(j) in advance of the application deadline date. (See ''Exhibits'' under Section V on page 12276.)

Section 811 Supportive Housing for Persons With Disabilities [Page 12301]

HUD adds to the list of deficiencies that will be considered curable in a Section 811 application, the Exhibit 7(j), Certification of Consistency with the EZ/EC Strategic Plan (Form HUD 2990), but only in connection with applications involving sites in Brooklyn, New York, in the jurisdiction of the New York Multifamily Hub (see ''Exhibits'' under Section V on page 12310.) This change is necessary since Brooklyn was not included in the list of EZs, Ecs, Urban Enhanced Enterprise Communities, and Strategic Planning Communities for New York, New York in Appendix A–2 to the General Section of the SuperNOFA. As a result, applicants, proposing sites in this location will not otherwise have had sufficient time to obtain the necessary signature on Exhibit 7(j) in advance of the application deadline date.

Assisted Living Conversion Program (ALCP) for Eligible Multifamily Projects [Page 12339]

HUD corrects the e-mail address for a contact persons on page 12341, second column, under the fifth full paragraph. HUD also amends paragraph (B)(11) of Section III (Program Description: Eligible and Ineligible Applicants, Developments and Activities) for clarity. (See page 12343). HUD also corrects paragraph (D) of Section III (Program Description: Eligible and Ineligible Applicants, Developments and Activities) to clarify the eligibility of Section 236 developments. (See page 12343).

Accordingly, in the Super Notice of Funding Availability for Housing, Community Development, and Empowerment Programs and Section 8 Housing Voucher Assistance for Fiscal Year 2001, FR Doc. 01–4439, beginning at 66 FR 11638, in the issue of Friday, February 26, 2001, the following corrections are made:

1. General Section of SuperNOFA, Beginning at 66 FR 11638

- On page 11643, the CFDA Number in the box labeled Lead-Based Paint Hazard Control Program should be 14.900.
- On page 11644, the CFDA Number in the box labeled Healthy Homes Demonstration and Education Program should be 14.901.
- On page 11652, paragraph (L) should be added to read as follows:

(L) Consistent with Executive Order 13202, neither you nor any subrecipient or program beneficiary receiving funds under an award granted pursuant to this SuperNOFA, nor any construction manager acting on behalf of you or any such subrecipient or program beneficiary, may require bidders, offerors, contractors, or subcontractors to enter into or adhere to any agreement with any labor organization on any construction project funded in whole or in part by such award or on any related construction project; or prohibit bidders, offerors, contractors, or subcontractors from entering into or adhering to any such agreement on any such construction project; or otherwise discriminate against bidders, offerors, contractors, or subcontractors on any such construction project because they become or refuse to become or remain signatories or otherwise to adhere to any such agreements. Contractors and subcontractors are not prohibited from voluntarily entering into such agreements.

- On page 11661, second column, the list of EZs, ECs, Urban Enhanced Enterprise Communities, Strategic Planning Communities for New York, New York, should read as follows:

NY, New York

Empowerment Zone (Upper Manhattan/Bronx)

Mr. Marion Phillips, III, New York Empowerment Zone Corp., 633 Third Avenue, 32nd Floor, New York, NY 10017, 212–803–3240 (Phone), 212–803–3294 (Fax)

Strategic Planning Community (Brooklyn)

Ms. June Van Brackle, Mayor's Office of the New York City EZ, 100 Gold St., 2nd Floor, New York, NY 10038, 212–788–6777 (Phone), 212–788–2718 (Fax)

2. Housing Counseling Program, Beginning at 66 FR 11841

- On page 11849, second column, HUD amends paragraph (A)(2) of Section VIII to read as follows:

(2) Form HUD–9902, Housing Counseling Agency Fiscal Year Activity Report for fiscal year October 1, 1999 through September 30, 2000.

If you did not participate in HUD's Housing Counseling program during FY 2000, this report should be completed to reflect your counseling workload during that period.

- On page 11849, second column, HUD amends paragraph (A)(3) of Section VIII to read as follows:

(3) Budget Work Sheet. A proposed budget for use of the requested HUD funds. Applicants need not, however, use the budget worksheet that HUD has provided in the past to submit their proposed budgets.

3. HOPE VI Program, Beginning at 66 FR 11913

- On page 11917, second column, HUD corrects paragraph (B)(2)(b)(ii) of Section II (Amount Allocated) to read as follows:

(ii) At least half of the funds requested for relocation must be used to provide mobility counseling and other services to promote the self-sufficiency of displaced residents and must be matched by non-HOPE VI funds in accordance with Section IV(F)(2) of this HOPE VI section of the SuperNOFA below.

- On page 11931, second column, HUD amends Rating Factor 2, paragraph (2)(a) of Section VI (Revitalization Application Selection Process) to read as follows:

(a) you will receive 4 to 7 points if you demonstrate that revitalization of the severely distressed project if you demonstrate that revitalization of the severely distressed project with HOPE VI funds will significantly improve the overall health of the neighborhood and spur outside investment into the surrounding community.

- On page 11934, first column, HUD amends Rating Factor 3, paragraph (7) of Section VI (Revitalization Application Selection Process) to read as follows:

(7) Apprenticeship Program: 2 Points. As described in Section VI(1) of the General Section, Bridging the Gap is a program in which HUD encourages you to assist public housing residents in obtaining construction apprenticeships. This will involve working with registered apprenticeship sources to provide entry level apprenticeships in construction, construction-related, and maintenance activities. A registered apprenticeship program is a program which has been registered with either a State Apprenticeship Agency recognized by the Department of Labor's Bureau of Apprenticeship and Training (BAT) or, if there is no recognized State agency, by the BAT. See also DOL regulations at 29 CFR Part 29.

(a) You will receive 2 points if you propose to implement a program that offers apprenticeships to residents or relocated residents of the targeted development. You must identify the registered apprenticeship source(s) you will work with and the number and types of jobs for which apprenticeships can be obtained.

(b) You will receive 0 points if:

(i) your program does not propose to assist residents in obtaining construction, construction-related, or maintenance-related apprenticeships, or

(ii) there is not enough information in your application to enable HUD to rate this factor.

4. Economic Development Initiative (EDI) Program, Beginning at 66 FR 12015

• On page 12023, first column, Factor 2, paragraph (2)(b) of Section V (Application Selection Process) to read as follows:

(b) Unemployment (15 points)—for both the project area and jurisdiction; an application that compares the local unemployment rate in the following manner to the national average at the time of submission will receive points under this Section as follows:

(i) Equal to but less than twice the national average—3 points;

(ii) Twice but less than three times the national average—6 points;

(iii) Three but less than four times the national average—9 points;

(iv) Four but less than five times the national average—12 points;

(v) Five or more times the national average—15 points.

5. Brownfields Economic Development Initiative (BEDI) Program, Beginning at 66 FR 12035

• On page 12040, first column, the formerly undesignated second, third, and fourth paragraphs under Rating Factor (2): Distress/Extent of the Problem (40 points), should read as follows: (1) In applying this factor, HUD will consider current levels of distress for the following areas affected by the project: first, in the area (i.e., Census Tract(s) or Block Groups) immediately surrounding the project site or the target area to be served by the proposed project; second, in the jurisdiction in which the project is to be located; third, relative to the similar measures of distress in the nation. Applicants may also provide data for the overall jurisdiction alongside comparable jurisdictions in the county and state, as appropriate to the activity, in order to demonstrate the various levels of distress in context. This means that an application that provides data that show levels of distress in the project area and the jurisdiction expressed as a percent greater than the national average will be rated higher under this Factor.

Notwithstanding the above, an applicant proposing a project to be located outside the target area could still receive points under the Distress factor if a clear rationale is provided linking the proposed project location and the benefits to be derived by persons living in more distressed area(s) of the applicant's jurisdiction.

(2) Applicants should provide data that address all indicators of distress, if applicable, as follows: (a) Poverty rate (20 points)—data should be provided in both absolute and percentage form (i.e., whole numbers and percents) for both the target area(s) and the jurisdiction as a whole; an application that compares the local poverty rate in the following manner to the national average at the time of submission will receive points under this section as follows:

Equal to but less than twice the national average—5 points;

Twice but less than three times the national average—10 points;

Three or more times the national average—20 points.

• On page 12040, second column, Rating Factor 2, paragraph (2)(b) of Section V (Application Selection Process) to read as follows:

(b) Unemployment (15 points)—for both the project area and jurisdiction; an application that compares the local unemployment rate in the following manner to the national average at the time of submission will receive points under this Section as follows:

(i) Equal to but less than twice the national average—3 points;

(ii) Twice but less than three times the national average—6 points;

(iii) Three but less than four times the national average—9 points;

(iv) Four but less than five times the national average—12 points;

(v) Five or more times the national average —15 points.

6. Youthbuild Program, Beginning at 66 FR 12055

• On page 12071, the asterisked footnote to line 12 of Exhibit 4A to read that ''Request may not exceed 10% of Youthbuild subtotal (line 11).''

• On page 12075, the Form 2C 13a: Housing Project Certification for Residential Rental Units, is corrected to read as follows:

2 C 13a: Housing Project Certifications For Residential Rental Units

Applicants requesting Youthbuild Grant funds to fund any part of the acquisition, architectural and engineering fees, construction, rehabilitation, operating costs or replacement reserves for a housing project that will be used for residential rental units, must make the following certifications. If the rightful property owner is not the applicant, then these certifications must be signed by that property owner. A separate certification must be signed for each housing project.

The Applicant or Rightful Property Owner certifies that, for a period of not less than ten (10) years after construction or rehabilitation is completed and an occupancy permit is issued for the Youthbuild residential rental housing project receiving Youthbuild assistance, it:

A. Will maintain at least a 90 percent level of occupancy for individuals and families with incomes less than 60 percent of the area median income, adjusted for family size. The remaining ten percent of the units will be made available to and occupied by low-income families. The income test will be conducted only at the time of entry for each unit available for occupancy. Each available rental unit will be made available to the 60 percent-of-area-median-income group for an advertising period of not less than 90 days upon each vacancy occurrence throughout the ten year period. Community-wide advertisements for tenants of this income group will be conducted. If, at the end of the 90-day advertising period, no qualifying tenant leases the unit, the unit will be advertised for individuals and families with incomes between 60 and 80 percent of the area median income, adjusted for family size, for another 90-day period. Leases for tenants whose incomes are between 60 and 80 percent of the area median income (exclusive of the ten percent allowance) will be limited to one year and such temporary tenants are not covered by paragraphs C., E., and F. below.

B. Will use the model lease submitted with the Youthbuild application with any modifications approved by HUD at the time of grant award.

C. Will not terminate the tenancy or refuse to renew the lease of a tenant occupying a Youthbuild residential rental housing unit except for serious or repeated violations of the terms and conditions of the lease, or for violation of applicable Federal, state or local laws, or for other good cause. Any termination or refusal to renew the lease will be preceded by a not less than 30-day written notice to the tenant specifying the grounds for the action.

D. Will maintain the premises in compliance with all applicable HUD, other Federal, State or local program housing quality standards and local code requirements. If no public assistance is involved other than the Youthbuild grant, HUD's Section 8 housing quality standards will be followed.

E. Will develop and adopt a tenant selection plan that:

(1) is consistent with the purpose of providing housing for homeless and very low-income families and individuals;

(2) is reasonably related to program eligibility and the certifying entity's ability to perform the obligations of the lease;

(3) gives reasonable consideration to the housing needs of families that would qualify for a preference under section 6(c)(4)(A) of the United States Housing Act of 1937;

(4) provides for the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and for the prompt notification in writing of any rejected applicant of the grounds for any rejection; and

(5) acknowledges that a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 will not be refused tenancy because of the status of the prospective tenant as a holder of such assistance.

F. Will, **if it is a nonprofit organization,** adopt and follow a plan for tenant participation in management decisions.

G. Will not require tenants to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

H. Will ensure that the aggregate monthly rental for each eligible project will not exceed the operating costs of the project (including debt service, management, adequate reserves, and other documented operating costs) plus a six percent return on any equity investment of the project owner.

I. Will, **if it is a nonprofit organization,** use any profit received from the operation, sale or other disposition of the project for the purposes of providing housing for low- and moderate-income families. Any profit-motivated partners in a nonprofit partnership will receive (i) not more than a six percent return on their equity investment from project operations; and (ii) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

J. Will not convey ownership of the property unless the instrument of conveyance requires a subsequent owner to comply with the above certifications for the remainder of the ten year period.

Signature of Authorized Certifying Official of:

☐ Applicant Organization ☐ Rightful Property Owner

Title _____

Organization _____

Date _____

Address of Property:

7. Resident Opportunities and Self Sufficiency (ROSS) Program, Beginning at 66 FR 12081

• On page 12081, first column, fourth paragraph under Program Overview, should read as follows:

Application Deadline. May 24, 2001, for Resident Management and Business Development; May 24, 2001, for Capacity Building or Conflict Resolution for all applicants except that Tribes and Tribally Designated Housing Entities (TDHEs). For Tribes/TDHEs applications will be due June 20, 2001. June 26, 2001, for Resident Service Delivery Models; and

After publication of this SuperNOFA, Service Coordinator grant renewals under the Service Coordinator category will be accepted until all funds are awarded or June 28, 2001, whichever occurs first.

• On page 12081, first column, first paragraph under Section I (Application Due Date, Application Kits, Further Information and Technical Assistance) should read as follows:

Application Due Date: Your completed application (one original and two copies) is due on or before 12:00 midnight, Eastern time, on the following application due dates to HUD Headquarters at the address shown below.

May 24, 2001, for Resident Management and Business Development;

May 24, 2001, for Capacity Building or Conflict Resolution for all applicants except that Tribes and Tribally Designated Housing Entities (TDHEs). For Tribes/TDHEs applications will be due June 20, 2001.

June 26, 2001, for Resident Service Delivery Models; and

After publication of this SuperNOFA, Service Coordinator grant renewals under the Service Coordinator category will be accepted until all funds are awarded or June 28, 2001, whichever occurs first.

• On page 12082, first column, paragraph (C)(b)(iii) under Section II (Amount Allocated) should read as follows:

(iii) The maximum amounts for CB/CR are as follows: $100,000 for City-Wide Resident Organizations (CWROs) per applicant, and $240,000 per applicant for all other eligible applicants in these funding categories. Applicants are required to allocate at least two-thirds of the total grant to direct funding of CB or CR activities for Site-Based Resident Associations (RAs) and/or Tribal ROs. Tribes/TDHEs may serve a single tribal RO. CWROs are required to serve a minimum of three RAs. All other applicants are required to serve a minimum of 10 RAs.

8. Continuum of Care Homeless Assistance Program, Beginning at 66 FR 12207

On page 12218, the field of the chart in Appendix A that addresses ''Eligible Populations'' under the Section 8 SRO program is corrected to eliminate the second bullet providing ''Section 8 eligible current occupants.'' (The first bullet providing ''Homeless individuals'' is correct.)

9. Housing Opportunities for Persons With AIDS (HOPWA) Program, Beginning at 66 FR 12225

• On page 12235, second column, HUD corrects Section VI(A) (Application Submission Requirements) to read as follows:

Item 10—Enter 14–241 and the title ''Housing Opportunities for Persons with AIDS'' or ''HOPWA'' for the Catalogue of Federal Domestic Assistance.

• On page 12255, HUD corrects paragraph B of Appendix D, the HOPWA Project Information Form, to read as follows:

B. Duplication of Assistance Requested. Please indicate if your applicant or a project sponsor is seeking funding under this HOPWA competition for an activity that is duplicated in an application under the HUD Continuum of Care Homeless Assistance 2001 competition as follows:

• On page 12265, HUD corrects paragraph 3 of Appendix D, HOPWA Applicant Certifications to read as follows:

3. It will *not* acquire, rehabilitate, convert, lease, repair or construct property to provide housing or commit HUD, State, local or other funds to program activities with respect to any eligible property until it has obtained HUD approval of form HUD–7015.15, ''Request for Release of Funds and Certification'' of compliance with the National Environmental Policy Act and implementing regulations at 24 CFR part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities) or, in cases where HUD has performed the environmental review, the Applicant has obtained HUD approval of the site following HUD's completion of form HUD–4128.

10. Section 202 Supportive Housing for the Elderly Program, Beginning at 66 FR 12267

On page 12276, second column, the list of Exhibits under Section V (Application Selection Process) is amended by adding the following new item (j):

(j) Certification of Consistency with the EZ/EC Strategic Plan (Form HUD 2990) (Only for applications with sites to be located in Upper Manhattan/Bronx and Brooklyn).

11. Section 811 Supportive Housing for Persons With Disabilities Program, Beginning at 66 FR 12301

On page 12310, second and third columns, the list of Exhibits under Section V (Application Selection Process) is amended by adding the following new item (j):

(j) Certification of Consistency with the EZ/EC Strategic Plan (Form HUD 2990) (Only for applications with sites to be located in Upper Manhattan/Bronx and Brooklyn).

12. Assisted Living Conversion Program (ALCP) for Eligible Multifamily Projects, Beginning at 66 FR 12341

• On page 12341, second column, under the fifth paragraph under ''For Further Information and Technical Assistance'' the third sentence is corrected to read as follows:

For Further Information and Technical Assistance. You should contact the Multifamily Hub where you will be mailing your ALCP Application. (Please refer to Hub telephone numbers in Appendix A.)

You also may contact Aretha Williams, Director, Grant Policy and Management Division, Room 6138, at (202)–708–3000 x2480 or Faye Norman, Housing Project Manager at (202) 708–3000 x2482 for questions regarding the ALF process. This is not a toll free number. Ms. Williams can be reached, by e-mail at *aretha_m._williams@hud.gov* and Ms. Norman at *faye_l._norman@hud.gov*. Both Ms. Williams and Ms. Norman are located at the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

If you have a hearing or speech impairment, you may access the telephone number via TTY by calling the Federal Information Relay Service at 1 800–877–8339.

• On page 12343, first column, HUD corrects paragraph (B)(11) of Section III (Program Description: Eligible and Ineligible Applicants, Developments and Activities) to read as follows:

(11) Upon receipt of a grant under this program, all project owners participating in the ALCP must provide a Declaration of Restrictive Covenants (DRC), which will be recorded with the land, to retain the low income character of the housing, and to maintain the project (including the ALF), as a

moderate, low, or very low income facility (as appropriate) for at least 20 years beyond the current 40-to-50 year term of the mortgage loan or capital advance. If you are going to use grant funds to convert unused or underutilized commercial property you must provide a DRC for at least a 20-year period or for the term of the mortgage on the property whichever is longer.

• On page 12343, third column, HUD also corrects paragraph (D) of Section III (Program Description: Eligible and Ineligible Applicants, Developments and Activities) to read as follows:

(D) *Eligible Developments.* (1) Section 202 projects, Section 202 projects receiving rental assistance under Section 8, and Section 202 projects receiving project rental assistance under Section 202(C)(2). Rural housing projects assisted under Section 515 of the Housing Act of 1949 receiving Section 8 rental assistance are also included. Projects receiving project-based rental assistance under Section 8, among others, include housing constructed, substantially rehabilitated or receiving moderate rehabilitation assistance under Section 8. Housing financed by a below-market interest rate loan or mortgage insured under Section 221(d)(3) of the National Housing Act; and housing insured, assisted or held by HUD, or a State or State Agency under Section 221(d)(3) of the National Housing Act; and housing insured, assisted or held by HUD, or a State or State Agency under Section 236 of the National Housing Act are also included. These housing projects must have been designated primarily for occupancy by elderly persons, been in occupancy for at least five years from the date the HUD–92485 Form entitled ''Permission to Occupy Project Mortgages'' was issued and Final Closing must have been completed. Your project must:

Dated: May 16, 2001.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing.

Donna M.Abbenante,

General Deputy Assistant Secretary for Community Planning and Development.

Gloria J. Cousar,

Acting General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 01–12794 Filed 5–18–01; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Sport Fishing and Boating Partnership Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: As provided in Section 10(a)(2) of the Federal Advisory Committee Act, the Fish and Wildlife Service announces a meeting designed to foster partnerships to enhance public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating in the United States. This meeting, sponsored by the Sport Fishing and Boating Partnership Council (Council), is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: Wednesday, June 6, 2001, 10 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Hotel and Suites, 625 First St., Alexandria, VA; (703) 548–6300.

Summary minutes of the conference will be maintained by the Council Coordinator at 4040 N. Fairfax Dr., Room 132A, Arlington, VA 22203, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Laury Parramore, Council Coordinator, at (703) 358–1711.

SUPPLEMENTARY INFORMATION: The Sport Fishing and Boating Partnership Council was formed in January 1993 to advise the Secretary of the Interior through the Director, U.S. Fish and Wildlife Service, about sport fishing and boating issues. The Council represents the interests of the public and private sectors of the sport fishing and boating communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council includes the director of the Service and the president of the International Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are directors from state agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, aquatic resource outreach and education, and tourism. The Sport Fishing and Boating Partnership Council (Council) will convene to discuss: (1) The Council's continuing role in providing input to the Fish and Wildlife Service on the Service's strategic planning for its Fisheries Program and the National Fish Hatchery System. (2) The Council's work in its role as a facilitator of discussions with Federal and State agencies and other sportfishing and boating interests concerning a variety of national boating and fisheries management issues. (3) The Council's role in providing the Interior Secretary with information about the implementation of the Strategic Plan for the National Outreach and Communications Program. The Secretary approved the plan in February 1999, and the five-year, $36-million federally funded outreach campaign authorized by the 1998 Sportfishing and Boating Safety Act is now being implemented by the Recreational Boating and Fishing Foundation, a private, nonprofit organization.

Dated: May 12, 2001.

Marshall P. Jones, Jr.,

Acting Director.

[FR Doc. 01–12668 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance. The Ordinance regulates the control, possession, and sale of liquor on the Hopland Band of Pomo Indians trust lands, in conformity with the laws of the State of California, where applicable and necessary. Although the Ordinance was adopted on March 2, 2001, it does not become effective until published in the **Federal Register** because the failure to comply with the Ordinance may result in criminal charges.

DATES: This Ordinance is effective on May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Kaye Armstrong, Branch of Tribal Relations, Division of Tribal Government Services, 1849 C Street NW., MS 4631–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transaction in Indian country. The Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance, Resolution No. 01–03–02, was duly adopted by the Tribal Council of the Hopland Band of Pomo Indians on March 2, 2001. The Hopland Band of Pomo Indians, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenues to combat alcohol abuse and its debilitating effects among individuals and family members within the reservation of the Hopland Band of Pomo Indians.

This notice is being published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.l.

I certify that by Resolution No. 01–03–02, the Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance was duly adopted by the Tribal Council on March 2, 2001.

Dated: May 11, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

The Hopland Band of Pomo Indians Liquor Regulation and Licensing Ordinance, Resolution No. 01–03–02, reads as follows:

Liquor Regulation and Licensing Ordinance of the Hopland Band of Pomo Indians

Section 1. Declaration of Findings. The Council hereby finds as follows:

1. Under Article IX of the Constitution of the Tribe, the Council has the power to administer Reservation assets and manage all economic affairs of the Tribe, to promote the peace, safety, health, and general welfare of the members of the Tribe, and to promulgate and adopt ordinances as needed by the Tribe.

2. The introduction, possession and sale of alcoholic beverages on the Hopland Indian Reservation (Reservation) is a matter of special concern to the Tribe.

3. Federal law leaves to federally recognized Indian tribes the decision regarding when and to what extent alcoholic beverage transactions shall be permitted on Indian reservations.

4. Present day circumstances make a complete ban on alcoholic beverages within the Reservation ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over alcoholic beverage distribution.

5. The enactment of a tribal ordinance governing alcoholic beverage sales on the Reservation and providing for the purchase and sale of alcoholic beverages through tribally licensed outlets will increase the ability of the tribal government to control the distribution, sale and possession of liquor on the Reservation, and at the same time will provide an important and urgently needed source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.

6. In order to help ensure the certification of this Ordinance by the Secretary of the Interior, the Tribe's originally enacted Liquor Ordinance, as subsequently amended, needs to be repealed and this Ordinance enacted in its place.

Section 2. Declaration of Policy. The Council hereby declares that the policy of the Tribe is to eliminate the evils of unlicensed and unlawful manufacture, distribution, and sale of alcoholic beverages on the Reservation and to promote temperance in the use and consumption of alcoholic beverages by increasing tribal control over the possession and distribution of alcoholic beverages on the Reservation.

Section 3. Repeal of All Previously Enacted Liquor Ordinances and Adoption of a new Liquor Licensing Ordinance. All Ordinances previously enacted by the Hopland Tribal Council pertaining to the manufacture, distribution, sale or possession of alcoholic beverages are hereby repealed and a new ordinance entitled Liquor Regulation and Licensing Ordinance is hereby adopted which provides as follows:

Chapters

Chapter 01

Sections

Section 01.010. Title. This Ordinance shall be known as the Liquor Regulation and Licensing Ordinance of the Hopland Band of Pomo Indians.

Section 01.020. Authority. This Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub L. 83–277, 67 Stat. 588, 18 U.S.C. § 1161), and Article IX of the Constitution of the Hopland Band of Pomo Indians.

Section 01.030. Purpose. The purpose of this ordinance is to regulate and control the possession and sale of liquor on the Hopland Indian Reservation. The enactment of a tribal ordinance governing liquor possession and sale on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and will at the same time, provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal government services.

Section 01.040. Effective Date. This Ordinance shall be effective on the date that it is published in the **Federal Register** by the Secretary of the Interior as required by applicable federal law.

Chapter 02—General Provisions

Sections

02.010. Short title. This ordinance shall be known and cited as the Hopland Liquor Regulation and Licensing Ordinance.

02.020. Purpose. The purpose of this Ordinance is to prohibit the importation, manufacture, distribution and sale of alcoholic beverages on the Hopland Indian Reservation except pursuant to a license issued by the Hopland Tribal Council under the provisions of this Ordinance.

02.030. Sovereign immunity preserved. Nothing in this Ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Hopland Band of Pomo Indians. No officer or employee of the Hopland Band of Pomo Indians is authorized nor shall he/she attempt to waive the immunity of the Tribe under the provisions of this Ordinance unless such officer or employee has an express and explicit written authorization from the Hopland Tribal Council.

02.040. Applicability within the Reservation. This Ordinance shall apply to all persons within the exterior

boundaries of the Hopland Indian Reservation consistent with the applicable federal Indian liquor laws.

02.050. Possession of alcoholic beverages. Nothing in this Ordinance shall be interpreted as prohibiting the possession, transportation or consumption of alcoholic beverages within the boundaries of the Hopland Indian Reservation. Possession, transportation and/or consumption of alcoholic beverages within the exterior boundaries of the Reservation in conformity with the provisions of Federal law relating to the possession, transportation, or consumption of alcoholic beverages is expressly permitted under this Ordinance.

02.060. Interpretation and findings. The Hopland Tribal Council in the first instance may interpret any ambiguities contained in this Ordinance.

02.070. Conflicting provisions. Whenever any conflict occurs between the provisions of this Ordinance or the provisions of any other ordinance of the Tribe, the stricter of such provisions shall apply.

02.080. Application of 18 U.S.C. 1161. The importation, manufacture, distribution and sale of alcoholic beverages on the Hopland Indian Reservation shall be in conformity with this Ordinance and in conformity with the laws of the State of California as that phrase or term is used in 18 U.S.C. 1161.

Chapter 04—Definitions

Sections

04.010. Interpretation. In construing the provisions of this Ordinance, the following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise.

04.020. Alcohol. Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

04.030. Alcoholic beverage. Alcoholic beverage includes all alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances. It shall be interchangeable in this Ordinance with the term liquor.

04.040. Beer. Beer means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager beer, small beer, and strong beer, and also includes sake, otherwise known as Japanese rice wine.

04.050. Distilled spirits. Distilled spirits means any alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

04.060. Importer. Importer means any person who introduces alcohol or alcoholic beverages into the Hopland Indian Reservation from outside the exterior boundaries of the Reservation for the purpose of sale or distribution within the Reservation, provided however, the term importer as used herein shall not include a wholesaler licensed by any state or tribal government selling alcoholic beverages to a seller licensed by a state or tribal government to sell at retail.

04.070. Liquor license. Liquor license means a license issued by the Hopland Tribal Council under the provisions of this Ordinance authorizing the sale, manufacture, or importation of alcoholic beverages on or within the Reservation consistent with federal law.

04.080. Manufacturer. Manufacturer means any person engaged in the manufacture of alcohol or alcoholic beverages.

04.090. Person. Person means any individual, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group, whether recognized by the United States Government or otherwise. The term shall also include the businesses of the Tribe. It shall be interchangeable in this Ordinance with the term seller or licensee.

04.100. Reservation. Reservation means all lands within the exterior boundaries of the Hopland Indian Reservation and such other lands as may hereafter be acquired by the Tribe, whether within or without said boundaries, under any grant, transfer, purchase, gift, adjudication, executive order, Act of Congress, or other means of acquisition.

04.110. Sale. Sale means the exchange of property and/or any transfer of the ownership of, title to, or possession of property for a valuable consideration, exchange or barter, in any manner or by any means whatsoever. It includes conditional sales contracts, leases with options to purchase, and any other contract under which possession of property is given to the purchaser, buyer, or consumer but title is retained by the vendor, retailer, manufacturer, or wholesaler, as security for the payment of the purchase price. Specifically, it shall include any transaction whereby, for any consideration, title to alcoholic beverages is transferred from one person to another, and includes the delivery of alcoholic beverages pursuant to an order placed for the purchase of such beverages, or soliciting or receiving such beverages.

04.120. Seller. Seller means any person who, while within the exterior boundaries of the Reservation, sells, solicits or receives an order for any alcohol, alcoholic beverages, distilled spirits, beer, or wine.

04.130. Tribal Council. Tribal Council or Council means the Hopland Tribal Council.

04.140. Tribe. Tribe means the Hopland Band of Pomo Indians.

04.150. Wine. Wine means the product obtained from the normal alcoholic fermentation of the juice of the grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made, and other rectified wine products.

Chapter 06—Prohibition of the Unlicensed Sale of Liquor

Sections

06.010. Prohibition of the unlicensed sale of liquor. No person shall import for sale, manufacture, distribute or sell any alcoholic beverages within the Reservation without first applying for and obtaining a written license from the Council issued in accordance with the provisions of this Ordinance.

06.020. Authorization to sell liquor. Any person applying for and obtaining a liquor license under the provisions of this Ordinance shall have the right to engage only in those liquor transactions expressly authorized by such license and only at those specific places or areas designated in said license.

06.030. Types of licenses. The Council shall have the authority to issue the following types of liquor licenses within the Reservation:

A. Retail on-sale general license means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer only on the premises or at the location designated in the license.

B. Retail on-sale beer and wine license means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer only on the premises or at the location designated in the license.

C. Retail off-sale general license means a license authorizing the applicant to sell alcoholic beverages at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

D. Retail off-sale beer and wine license means a license authorizing the applicant to sell beer and wine at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

E. Manufacturer's license means a license authorizing the applicant to manufacture alcoholic beverages for the purpose of sale on the Reservation.

Chapter 08—Application for License

Sections

08.010. Application form and content. An application for a license shall be made to the Council and shall contain the following information:

A. The name and address of the applicant. In the case of a corporation, the names and addresses of all of the principal officers, directors and stockholders of the corporation. In the case of a partnership, the name and address of each partner.

B. The specific area, location and/or premises for which the license is applied for.

C. The type of liquor transaction applied for (i.e. retail on-sale general license, etc.).

D. Whether the applicant has a state liquor license.

E. A statement by the applicant to the effect that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this Ordinance or any of the provisions of the California Alcoholic Beverage Control Act.

F. The signature and fingerprint of the applicant. In the case of a partnership, the signature and fingerprints of each partner. In the case of a corporation, the signature and fingerprints of each of the officers of the corporation under the seal of the corporation.

G. The application shall be verified under oath, notarized and accompanied by the license fee required by this Ordinance.

08.020. Fee accompanying application. The Council shall by resolution establish a fee schedule for the issuance, renewal and transfer of the following types of licenses:

A. Retail on-sale general license;

B. Retail on-sale beer and wine license;

C. Retail off-sale general license;

D. Retail off-sale beer and wine liquor; and

E. Manufacturer's license.

08.030. Investigation; denial of application. Upon receipt of an application for the issuance, transfer or renewal of a license and the application fee required herein, the Council shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied for qualify for a license and whether the provisions of this Ordinance have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The Council shall deny an application for issuance, renewal or transfer of a license if either the applicant or the premises for which a license is applied for does not qualify for a license under this Ordinance or if the applicant has misrepresented any facts in the application or given any false information to the Council in order to obtain a license.

The Council further may deny any application for issuance, renewal or transfer of a license if the Council cannot make the findings required by Section 10.20 of this Ordinance or the Council finds that the issuance of such a license would tend to create a law enforcement problem, or if issuance of said license would be a detriment to the health, safety and welfare of the Tribe or its members.

Chapter 10—Issuance, Renewal and Transfer of Licenses

Sections

10.010. Public hearing. Upon receipt of an application for issuance, renewal or transfer of a license, and the payment of all fees required under this Ordinance, the Secretary of the Council shall set the matter for a public hearing. Notice of the time and place of the hearing shall be given to the applicant and the public at least ten (10) calendar days before the hearing. Notice shall be given to the applicant by prepaid U.S. mail at the address listed in the application. Notice shall be given to the public by publication in a newspaper of general circulation sold on the Reservation. The notice published in the newspaper shall include the name of the applicant and the type of license applied for and a general description of the area where liquor will be sold. At the hearing, the Council shall hear from any person who wishes to speak for or against the application. The Council shall have the authority to place time limits on each speaker and limit or prohibit repetitive testimony.

10.020. Council action on application. Within thirty (30) days of the conclusion of the public hearing, the Council shall act on the matter. The Council shall have the authority to deny, approve, or approve with conditions the application. Before approving the application, the Council shall find: (1) that the site for the proposed premises has adequate parking, lighting, security and ingress and egress so as not to adversely affect adjoining properties or businesses, and (2) that the sale of alcoholic beverages at the proposed premises is consistent with the Tribe's Zoning Ordinance.

Upon approval of an application, the Council shall issue a license to the applicant in a form to be approved from time to time by the Council by resolution. All businesses shall post their tribal liquor licenses issued under this Ordinance in a conspicuous place upon the premises where alcoholic beverages are sold, manufactured or offered for sale.

10.030. Multiple locations. Each license shall be issued to a specific person. Separate licenses shall be issued for each of the premises of any business establishment having more than one location.

10.040. Term of license/Temporary licenses. All licenses issued by the Council shall be issued on a calendar year basis and shall be renewed annually; provided, however, that the

Council may issue special licenses for the sale of alcoholic beverages on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering, or similar occasion at a fee to be established by the Council by resolution.

10.050. Transfer of licenses. Each license issued or renewed under this Ordinance is separate and distinct and is transferable from the licensee to another person and/or from one premises to another premises only with the approval of the Council. The Council shall have the authority to approve, deny, or approve with conditions any application for the transfer of any license. In the case of a transfer to a new person, the application for transfer shall contain all of the information required of an original applicant under Section 08.010 of this Ordinance. In the case of a transfer to a new location, the application shall contain an exact description of the location where the alcoholic beverages are proposed to be sold.

Chapter 12—Revocation of Licenses

Sections

12.010. Revocation of licenses
12.020. Accusations
12.030. Hearing

12.010. Revocation of licenses. The Council shall revoke a license upon any of the following grounds:

A. The misrepresentation of a material fact by an applicant in obtaining a license or a renewal thereof.

B. The violation of any condition imposed by the Council on the issuance, transfer or renewal of a license.

C. A plea, verdict, or judgment of guilty, or the plea of nolo contendere to any public offense involving moral turpitude under any federal or state law prohibiting or regulating the sale, use, possession, or giving away of alcoholic beverages or intoxicating liquors.

D. The violation of any tribal ordinance.

E. The failure to take reasonable steps to correct objectionable conditions constituting a nuisance on the licensed premises or any immediately adjacent area leased, assigned or rented by the licensee within a reasonable time after receipt of a notice to make such corrections has been received from the Council or its authorized representative.

12.020. Accusations. The Council, on its own motion through the adoption of an appropriate resolution meeting the requirements of this section, or any person may initiate revocation proceedings by filing an accusation with the Secretary of the Council. The accusation shall be in writing and signed by the maker, and shall state facts showing that there are specific grounds under this Ordinance which would authorize the Council to revoke the license or licenses of the licensee against whom the accusation is made. Upon receipt of an accusation, the Secretary of the Council shall cause the matter to be set for a hearing before the Council. Thirty (30) days prior to the date set for the hearing, the Secretary shall mail a copy of the accusation along with a notice of the day and time of the hearing before the Council. The notice shall command the licensee to appear and show cause why the licensee's license should not be revoked. The notice shall state that the licensee has the right to file a written response to the accusation, verified under oath and signed by the licensee ten (10) days prior to the hearing date.

12.030. Hearing. Any hearing held on any accusation shall be held before a majority of the Council under such rules of procedure as it may adopt. Both the licensee and the person filing the accusation, including the Tribe, shall have the right to present witnesses to testify and to present written documents in support of their positions to the Council. The Council shall render its decision within sixty (60) days after the date of the hearing. The decision of the Council shall be final and non-appealable.

Chapter 14—Enforcement

Sections

14.010. Right to inspect
14.020. General penalties
14.030. Initiation of action

14.010. Right to Inspect. Any premises within the area under the jurisdiction of this Ordinance on which liquor is sold or distributed shall be open for inspection by representatives of the Council at all reasonable times during business hours for the purposes of ascertaining whether the rules and regulations of this Ordinance are being complied with.

14.020. General penalties. Any person adjudged to be in violation of this Ordinance shall be subject to a civil penalty of not more than Five Hundred Dollars ($500.00) for each such violation. The Council may adopt by resolution a separate schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Hundred Dollars ($500.00) limitation set forth above.

The penalties provided for herein shall be in addition to any criminal penalties which may hereafter be imposed in conformity with federal law by separate Chapter or provision of this Ordinance or by a separate ordinance enacted by the Hopland Tribal Council.

14.020. Initiation of action. Any violation of this Ordinance shall constitute a public nuisance. The Council may initiate and maintain an action in tribal court, or, if the tribal court does not have jurisdiction over the action, in the United States District Court for the Northern District of California, to abate and permanently enjoin any nuisance declared under this Ordinance. Any action taken under this section shall be in addition to any other penalties provided for this Ordinance.

Section 4. Severability. If any part or provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and affect. To this end the provisions of this Ordinance are severable.

Section 5. Effective Date. This Ordinance shall be effective on such date as the Secretary of the Interior certifies this Ordinance and publishes the same in the **Federal Register**.

[FR Doc. 01–12690 Filed 5–18–01; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–01–1220–AA]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will participate in a field tour of the BLM-administered public lands on Friday, June 15, 2001, from 7:30 a.m to 4:30 p.m., and meet in formal session on Saturday, June 16, from 8 a.m. to 5 p.m. The Saturday meeting will be held in the Pinnacles Room at the Kerr McGee Center, located at 100 West California Avenue in Ridgecrest, California.

The Council and interested members of the public will assemble for the field tour at the Best Western China Lake Inn parking lot at 7:15 a.m. and depart at 7:30 a.m. Tour stops will include the Rand Mountains and Jawbone Canyon

Off-Highway Vehicle Recreation Area. Members of the public are welcome to participate in the tour, but should plan on providing their own transportation, drinks, and lunch.

The Council will meet in formal session on Saturday. Agenda items will include updates/briefings on BLM's off-highway vehicle program and management related issues.

All Desert District Advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the beginning of the meeting for topics not on the agenda.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Doran Sanchez at (909) 697–5220, BLM California Desert District External Affairs.

Dated: May 7, 2001.

Tim Salt,

District Manager.

[FR Doc. 01–12697 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–990–AK–990–5101–NH–FL07]

Notice of Right-of-Way Renewal Application, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended, and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et. seq.) an application has been filed to renew the Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System (TAPS), which includes pipeline right-of-way, related facilities, and access roads across land between Prudhoe Bay and the Port of Valdez, Alaska. The existing Federal Agreement and Grant of Right-of-Way expires January 22, 2004. The application seeks to renew the Federal Agreement and Grant of Right-of-Way for a 30-year term. The applicants are: (1) Amerada Hess Pipeline Corporation, (2) BP Pipelines (Alaska) Inc., (3) ExxonMobil Pipeline Company, (4) Phillips Transportation Alaska, Inc., (5) Unocal Pipeline Company, and (6) Williams Alaska Pipeline Company, L.L.C. The Trans-Alaska Pipeline System carries crude oil through a 48-inch diameter pipeline from production sites in Prudhoe Bay, Alaska, 800 miles south through Alaska's interior to the Port of Valdez. The purpose of this notice is to inform the public that the Bureau will be deciding whether a renewal of the Federal Agreement and Grant of Right-of-Way should be approved, and if so, under what terms and conditions. The application proposes to renew the Federal Agreement and Grant of Right-of-Way for the following:

Federal Grant of Right-of-Way, BLM Serial Numbers F–12505 and AA–5847

Umiat Meridian, Alaska

T. 1 N., R. 14 E., Sec. 34.
T. 1 S., R. 14 E., Secs. 2, 10, 11, 15.
T. 9 S., R. 13 E., Secs. 4, 5, 7, 8.
T. 9 S., R. 12 E., Secs. 11, 12, 14, 15, 16, 17, 19, 20, 30.
T. 9 S, R. 11 E., Secs. 25, 35, 36.
T. 10 S., R. 11 E., Secs. 2, 3, 10, 11, 14, 23, 26, 35.
T. 11 S., R. 11 E., Secs. 1, 2, 12, 13, 24.
T. 11 S., R. 12 E., Secs. 19, 29, 30, 32.
T. 12 S., R. 12 E., Secs. 5, 8, 9, 16, 21, 28, 33.
T. 13 S., R. 12 E., Secs. 3, 9, 10, 15, 16, 21, 28, 32, 33.
T. 14 S., R. 12 E., Secs. 5, 7, 8, 17, 20, 29, 32.
T. 15 S., R. 12 E, Secs. 5, 6, 7, 17, 18, 19.
T. 15 S., R. 11 E., Secs. 23, 24, 26, 34, 35.
T. 16 S., R. 11 E., Secs. 2, 3, 9, 10, 16, 19, 20, 21, 29, 30.
T. 16 S., R. 10 E., Secs. 25, 33, 34, 35, 36.
T. 17 S., R. 10 E., Sec. 2.

Fairbanks Meridian, Alaska

T. 2 N., R. 1 W., Secs. 3, 10.
T. 5 N., R. 3 W., Secs. 27, 34, 36.
T. 12 N., R. 10 W., Secs. 6, 7, 18.
T. 12 N., R. 11 W., Sec. 1.
T. 13 N. R. 11 W., Secs. 7, 17, 18, 20, 21, 22, 26, 27, 35, 36.
T. 13 N., R. 12 W., Secs. 1, 2, 12.
T. 14 N. R. 12 W., Secs. 6, 7, 8, 17, 20, 21, 27, 28, 34, 35.
T. 14., R. 11 W., Sec. 26.
T. 15 N., R. 12 W., Secs. 6, 7, 17, 18, 20, 29, 30, 31.
T. 16 N., R. 12 W., Sec. 31.
T. 16 N., R. 13 W., Secs. 3, 4, 10, 14, 15, 23, 24, 25, 36.
T. 17 N., R. 13 W., Secs. 6, 7, 8, 17, 20, 21, 28, 33, 34.
T. 17 N., R. 14 W., Sec. 1.
T. 18 N., R. 14 W., Secs. 4, 5, 9, 10, 14, 15, 23, 25, 26, 36.
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T. 20 N., R. 13 W., Sec 30.
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T. 23 N., R. 14 W., Secs. 3, 4, 8, 9, 17, 18, 19, 30, 31.
T. 24 N., R. 14 W., Secs. 13, 23, 24, 26, 27, 34.
T. 24 N., R. 13 W., Secs. 5, 7, 8, 18.
T. 25 N., R. 13 W., Secs. 12, 13, 23, 24, 26, 27, 33, 34.
T. 25 N., R. 12 W., Secs. 6, 7.
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T. 27 N., R. 13 W., Secs. 1, 11, 12, 14, 23, 26, 35.
T. 27 N., R. 12 W., Sec. 6.
T. 28 N., R. 12 W., Secs. 6, 15, 16, 29, 30, 31.
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T. 1 S., R. 2 E., Secs. 22, 26, 27.
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T. 19 S., R. 10 E., Secs. 1, 12, 13.
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Copper River Meridian, Alaska

T. 1 N., R. 1 E., Sec. 6.
T. 2 N., R. 1 E., Secs. 30, 31.
T. 2 N., R. 1 W., Secs. 3, 10, 11, 24, 25.
T. 4 N., R. 1 W., Secs. 30, 31.
T. 4 N., R. 2 W., Secs. 1, 12, 13, 24, 25.

T. 5 N., R. 2 W., Secs. 1, 12, 13, 24, 25, 36.
T. 6 N., R. 2 W., Secs. 1, 12, 13, 24, 25, 36.
T. 7 N., R. 2 W., Secs. 12, 13, 24, 25, 36.
T. 7 N., R. 1 W., Secs. 6, 35.
T. 7 N., R. 2 W., Sec. 1.
T. 8 N., R. 2 W., Secs. 2, 11, 14, 23, 24, 25, 36.
T. 9 N., R. 2 W., Secs. 12, 13, 23, 24, 25, 26, 35.
T. 9 N., R. 1 W., Secs. 6, 7.
T. 10 N., R. 1 W., Secs. 5, 7, 8, 17, 18, 20, 29, 31, 32.
T. 11 N., R. 1 W., Secs. 4, 9, 16, 21, 28, 32, 33.
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T. 13 N., R. 1 W., Secs. 5, 6, 8, 17, 18, 20, 29, 32.
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T. 2 S., R. 1 E., Secs. 2, 11, 14, 15, 22, 27, 34.
T. 3 S., R. 1 E., Secs. 3, 4, 9, 16, 21, 28, 29, 32, 33.
T. 4 S., R. 1 E., Secs. 5, 8, 16, 17, 21, 22, 25, 26, 27, 36.
T. 5 S., R. 1 E., Sec. 1.
T. 5 S., R. 2 E., Secs. 6, 7.
T. 5 S., R. 1 E., Secs. 12, 13, 23, 24, 26, 27, 32, 33, 34.
T. 6 S., R. 1 E., Secs. 5, 7, 8, 17, 18, 29, 30, 32.
T. 6 S., R. 1 W., Secs. 13, 24, 25.
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T. 7 S., R. 1 W., Secs. 13, 23, 24, 26, 27, 34, 35.
T. 8 S., R. 1 W., Secs. 3, 4, 5, 6.
T. 8 S., R. 2 W., Secs. 1, 2, 3, 4, 7, 8, 9.
T. 8 S., R. 3 W., Secs. 12, 13, 14, 22, 23, 27, 34.

Prospect Power & Communication Line, BLM Serial No. F–84966

Fairbanks Meridian, Alaska

T. 23 N., R. 14 W., Sec. 17, SW¼.

Gulkana Communication Site & Access Road, BLM Serial No. AA–31239

Copper River Meridian, Alaska

T. 9 N., R. 2 W., Sec. 26, SW¼SE¼; Sec. 35 NW¼ NE¼.

Fuel Gas Pipeline, BLM Serial No. F–21770

Umiat Meridian, Alaska

T. 1 N., R. 15 E., Sec 7.
T. 1 S., R. 14 E., Sec 3.
T. 9 S., R.11 E., Secs. 22, 23, 24, 27, 28, 33.
T. 9 S., R.12 E., Secs. 12, 13, 14, 15, 19, 20, 21, 22.
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Rights-of-Way for Access Roads

Umiat Meridian, Alaska

	BLM Serial No.
T. 9 S., R. 12 E., Sec. 19	F–22386
T. 9 S., R. 13 E., Sec. 7	F–20780
T. 10 S., R. 11 E., Sec. 3	F–21586
T. 10 S., R. 11 E., Sec. 23	F–21585
T. 11 S., R. 11 E., Secs. 1, 2	F–20776
T. 11 S., R. 11 E., Sec. 13	F–21467
T. 11 S., R. 12 E., Sec. 29	F–21465
T. 11 S., R. 12 E., Sec. 32	F–21656, FF–088221
T. 12 S., R. 12 E., Sec. 16	F–20719
T. 12 S., R. 12 E., Sec. 28	FF–088197
T. 13 S., R. 12 E., Secs. 3, 4	F–20717
T. 13 S., R. 12 E., Sec. 21	F–21727
T. 13 S., R. 12 E., Sec. 28	FF–088195
T. 13 S., R. 12 E., Sec. 32	F–20715
T. 13 S., R. 12 E., Sec. 9	FF–088193
T. 14 S., R. 12 E., Sec. 7, 8	F–20714
T. 15 S., R. 11 E., Sec. 24	F–21617
T. 15 S., R. 11 E., Sec. 26	F–21583
T. 15 S., R. 12 E., Sec. 6	F–20713
T. 16 S., R. 10 E., Sec. 25	F–64648
T. 16 S., R. 10 E., Sec. 36	FF–088485, F–21640
T. 16 S., R. 11 E., Secs. 3, 10	F–21535
T. 16 S., R. 11 E., Secs. 16, 21	F–21653
T. 16 S., R. 11 E., Sec. 30	F–20707

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T. 2 N., R. 1 W., Secs. 1, 2, 3	F–20564
T. 12 N., R. 11 W., Sec. 1	F–20594
T. 12 N., R. 10 W., Sec. 7	F–64643
T. 13 N., R. 12 W., Sec. 12	F–20598
T. 13 N., R. 11 W., Secs. 17, 18	F–20597
T. 13 N., R. 11 W., Sec. 22	F–20596
T. 13 N., R. 11 W., Sec. 36	F–20595
T. 14 N., R. 12 W., Sec. 7	F–21565
T. 14 N., R. 12 W., Secs. 20, 21	F–21546
T. 14 N., R. 12 W., Secs. 27, 28	F–21581
T. 14 N., R. 12 W., Sec. 34	F–20600
T. 15 N., R. 12 W., Sec. 7	F–20606
T. 15 N., R. 12 W., Sec. 29	F–20605
T. 15 N., R. 12 W., Sec. 31	F–20604
T. 16 N., R. 13 W., Sec. 4	F–20609
T. 16 N., R. 13 W., Sec. 14	F–20608
T. 17 N., R. 13 W., Sec. 28	F–20610, F–20611
T. 18 N., R. 14 W., Sec. 4	F–20616
T. 18 N., R. 14 W., Sec. 9	F–20615
T. 18 N., R. 14 W., Sec. 23	F–64644
T. 18 N., R. 14 W., Sec. 36	F–20613
T. 19 N., R. 14 W., Sec. 19	F–20621
T. 19 N., R. 14 W., Sec. 30	FF–088184, FF–088185, FF–088219
T. 19 N., R. 14 W., Sec. 31	F–20618
T. 19 N., R. 15 W., Sec. 11	F–20622
T. 19 N., R. 15 W., Sec. 24	F–20621
T. 20 N., R. 15 W., Secs. 3, 4, 10	F–21567
T. 20 N., R. 15 W., Secs. 15, 16, 17	F–20623
T. 20 N., R. 15 W., Secs. 27, 28	F–21549
T. 20 N., R. 15 W., Secs. 34, 35	F–21582
T. 21 N., R. 14 W., Sec. 7	F–20627, F–20628
T. 21 N., R. 14 W., Sec. 19	F–20625
T. 22 N., R. 14 W., Sec. 7	F–21568
T. 22 N., R. 14 W., Sec. 19	FF–81337
T. 22 N., R. 14 W., Secs. 29, 31, 32	FF–088186
T. 22 N., R. 14 W., Secs. 31, 32	F–20773
T. 23 N., R. 14 W., Sec. 3	F–20637
T. 23 N., R. 14 W., Sec. 8	F–21693
T. 23 N., R. 14 W., Secs. 4, 9	F–21552
T. 23 N., R. 14 W., Secs. 19, 30	F–22365
T. 23 N., R. 14 W., Sec. 31	F–20633
T. 24 N., R. 13 W., Sec. 5	F–20645
T. 24 N., R. 13 W., Sec. 8	F–21570
T. 24 N., R. 14 W., Sec. 23	F–20642
T. 24 N., R. 14 W., Sec. 26	F–20640
T. 24 N., R. 14 W., Sec. 34	F–20638
T. 25 N., R. 13 W., Sec. 13	F–21553
T. 25 N., R. 13 W., Secs. 23, 26	F–21551
T. 26 N., R. 13 W., Sec. 2	F–20654
T. 26 N., R. 13 W., Sec. 14	F–20653
T. 26 N., R. 13 W., Sec. 23	F–20652
T. 26 N., R. 13 W., Sec. 26	F–22978
T. 27 N., R. 12 W., Sec. 6	F–20657
T. 27 N., R. 13 W., Sec. 14	F–20656
T. 27 N., R. 13 W., Sec. 26	F–64645
T. 28 N., R. 12 W., Sec. 31	F–21763
T. 29 N., R. 12 W., Sec. 1	F–20666
T. 29 N., R. 12 W., Secs. 13, 14	F–20665
T. 30 N., R. 11 W., Sec. 5	F–20671
T. 30 N., R. 11 W., Sec. 18	F–20669
T. 30 N., R. 11 W., Sec. 19	F–20668
T. 31 N., R. 10 W., Sec. 6	F–20679
T. 31 N., R. 10 W., Secs. 7, 8	F–20678
T. 31 N., R. 10 W., Secs. 17, 18	F–20677
T. 31 N., R. 10 W., Sec. 18	F–20676, FF–088222, FF–088190
T. 31 N., R. 10 W., Sec. 19	F–20675
T. 31 N., R. 11 W., Sec. 25	FF–87266
T. 31 N., R. 11 W., Sec. 32	FF–088187
T. 31 N., R. 11 W., Sec. 33	FF–088188, FF–088189
T. 31 N., R. 11 W., Sec. 35	F–20673
T. 32 N., R. 10 W., Sec. 4	F–20683
T. 32 N., R. 10 W., Sec. 9	FF–84277, FF–088191
T. 32 N., R. 10 W., Secs. 20, 21	F–21638
T. 32 N., R. 10 W., Sec. 31	F–20679
T. 33 N., R. 10 W., Sec. 24	F–20688
T. 33 N., R. 10 W., Sec. 35	F–21429, FF–088218, FF–088220
T. 34 N., R. 10 W., Sec. 4	F–20694
T. 34 N., R. 10 W., Sec. 15	F–20693
T. 34 N., R. 10 W., Secs. 22, 23	F–20692
T. 34 N., R. 10 W., Sec. 26	F–21652
T. 35 N., R. 10 W., Sec. 4	F–21623
T. 35 N., R. 10 W., Sec. 16	F–64646
T. 35 N., R. 10 W., Sec. 28	F–21618
T. 36 N., R. 10 W., Sec. 3	FF–088194

	BLM serial No.
T. 36 N., R. 10 W., Sec. 21	FF–088192
T. 36 N., R. 10 W., Sec. 28	F–20699
T. 36 N., R. 10 W., Sec. 33	F–64647
T. 37 N., R. 10 W., Sec. 25	FF–088223
T. 2 S., R. 3 E., Sec. 19	F–21650
T. 2 S., R. 3 E., Secs. 34, 35	F–21740
T. 3 S., R. 3 E., Secs. 2, 11, 12, 13	F–21740
T. 3 S., R. 4 E., Secs. 17, 18	F–21740
T. 10 S., R. 10 E., Sec. 26	F–20557, F–21591
T. 11 S., R. 10 E., Sec. 22	F–20554
T. 11 S., R. 10 E., Secs. 33, 34	F–20553
T. 15 S., R. 10 E., Sec. 19	F–20545
T. 16 S., R. 10 E., Sec. 5	F–20542
T. 16 S., R. 10 E., Sec. 8	F–20541
T. 16 S., R. 10 E., Sec. 32	F–20536, F–21759
T. 17 S., R. 10 E., Sec. 4	F–20534, F–20535
T. 17 S., R. 10 E., Sec. 14	F–20530
T. 17 S., R. 10 E., Sec. 15	F–20532
T. 17 S., R. 10 E., Sec. 25	F–21756
T. 17 S., R. 10 E., Sec. 36	F–20526
T. 18 S., R. 10 E., Sec. 1	AA–37894
T. 18 S., R. 10 E., Sec. 12	AA–8857
T. 18 S., R. 10 E., Sec. 24	AA–8855
T. 18 S., R. 10 E., Sec. 25	AA–8854
T. 19 S., R. 11 E., Secs. 19, 20	AA–8853
T. 19 S., R. 11 E., Secs. 28, 29	AA–9213

Copper River Meridian, Alaska

	BML Serial No.
T. 2 N., R. 1 W., Sec. 12	AA–9166
T. 2 N., R. 1 W., Sec. 25	AA–8845
T. 2 N., R. 1 E., Sec. 30	AA–8845
T. 3 N., R. 1 W., Sec. 17	AA–8862
T. 5 N., R. 2 W., Sec. 36	AA–8863
T. 6 N., R. 2 W., Sec. 25	AA–9189
T. 6 N., R. 1 W., Secs. 27, 28, 29, 30	AA–9189
T. 9 N., R. 2 W., Secs. 23, 24, 25	AA–8867
T. 9 N., R. 2 W., Secs. 26, 35	AA–8866
T. 10 N., R. 1 W., Sec. 20	AA–11185
T. 11 N., R. 1 W., Secs. 16, 21	AA–9198
T. 11 N., R. 1 W., Sec. 32	AA–8849
T. 11 N., R. 1 W., Sec. 33	AA–8848
T. 12 N., R. 1 W., Secs. 7, 8	AA–8870
T. 13 N., R. 2 W., Sec. 1	AA–8871
T. 13 N., R. 1 W., Sec. 6	AA–8871
T. 13 N., R. 1 W., Secs. 19, 20	AA–8851
T. 14 N., R. 1 W., Sec. 31	AA–8871
T. 1 S., R. 1 E., Sec. 3	AA–8843
T. 1 S., R. 1 E., Sec. 10	AA–8842
T. 1 S., R. 1 E., Sec. 25	AA–8840
T. 2 S., R. 1 E., Sec. 14	AA–8838
T. 3 S., R. 1 E., Secs. 21, 22	AA–9462
T. 5 S., R. 1 E., Secs. 26, 27	AA–8829
T. 6 S., R. 1 E., Sec. 8	AA–8827
T. 6 S., R. 1 E., Sec. 19	AA–8825
T. 6 S., R. 1 W., Sec. 24	AA–8825
T. 7 S., R. 1 E., Sec. 5	AA–37895
T. 7 S., R. 1 E., Sec. 8	AA–8822
T. 7 S., R. 1 E., Secs. 17, 18	AA–075690
T. 7 S., R. 1 W., Sec. 24	AA–9602
T. 7 S., R. 1 W., Sec. 26	AA–8820
T. 7 S., R. 1 W., Sec. 34	AA–8817
T. 8 S., R. 1 W., Sec. 6	AA–9589
T. 8 S., R. 3 W., Sec. 13	AA–77244

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for addresses where the application can be inspected.

FOR FURTHER INFORMATION CONTACT: Rob McWhorter, TAPS Renewal Coordinator, at (907) 271–3664.

SUPPLEMENTARY INFORMATION: The locations where the application can be inspected are:

U.S. Bureau of Land Management, State/Federal Joint Pipeline Office, 411 West 4th Avenue, Suite 2, Anchorage, Alaska 99501

U.S. Bureau of Land Management, Public Information Center, Alaska State Office 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599

U.S. Bureau of Land Management, Northern Field Office Public Room 1150 University Avenue, Fairbanks, Alaska 99709

U.S. Bureau of Land Management, Glennallen Field Office, P.O. Box 147, Glennallen, Alaska 99588

ARLIS 3150 C Street, Anchorage, Alaska 99503

Anchorage Loussac Public Library, 3600 Denali Street, Anchorage, Alaska 99503

Fairbanks Northstar Borough Public Library, 1215 Cowles Street, Fairbanks, Alaska 99701–4313

Valdez Consortium Library, P.O. Box 609, Valdez, Alaska 99686

Tuzzy Consortium Library, P.O. Box 749, Barrow, Alaska 99723

Delta Community Library, 2288 Deborah Street, Delta Junction, Alaska 99737

Copper Valley Community Library, Mile 186, Glenn Highway, Glennallen, Alaska 99588

Electronic Copies

Electronic copies of the application are available for interested persons to review at the Bureau of Land Management/Joint Pipeline Office web site: *tapsrenewal@jpo.doi.gov.*

Dated: May 11, 2001.

Jerry Brossia,

Authorized Officer, Joint Pipeline Office.

[FR Doc. 01–12698 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for Proposed Lease Sale 182 in the Central Gulf of Mexico (2002)

AGENCY: Minerals Management Service.

ACTION: Preparation of an environmental assessment.

SUMMARY: The Minerals Management Service (MMS) is beginning preparation of an environmental assessment (EA) for proposed lease Sale 182 (scheduled for March 2002) in the Central Gulf of Mexico Planning Area. In August 1996, MMS issued a Call for Information and Nominations/Notice of Intent to Prepare an EIS (Call/NOI) for the five proposed Central Gulf of Mexico sales in the current 5-year leasing program. In 1997, MMS prepared a single environmental impact statement (EIS) for all five sales. The multisale Final EIS, filed in November 1997, included an analysis of a single, ''typical'' sale, and a cumulative analysis that included the effects of holding all five sales, as well as the cumulative effects of the long-term development of the planning area. The MMS stated in the EIS that an EA would be prepared for each lease sale after the first sale covered in the EIS (Sale 169).

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. Alvin Jones, telephone (504) 736–1713.

SUPPLEMENTARY INFORMATION: The preparation of this EA is the first step in the prelease decision process for Sale 182. The proposal and alternatives for Sale 182 were identified by the Director of MMS in November 1996 following the Call/NOI and were analyzed in the Central Gulf multisale EIS, which is available from the Gulf of Mexico OCS Region's Public Information Office at 1–800–200–GULF. The proposed action analyzed in the multisale EIS was the offering of all available unleased acreage in the Central Gulf of Mexico Planning Area. The EA will also analyze alternatives to defer blocks south and within 15 miles of Baldwin County, Alabama, and to defer blocks containing topographic features with sensitive biological resources, as well as the no action alternative. The analysis in the EA will reexamine the potential environmental effects of the proposal and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final EIS was prepared.

After completion of the EA, MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a supplemental EIS. The MMS will then prepare and send consistency determinations to the affected States to determine whether the proposed sale is consistent with federally-approved State coastal zone management programs, and will send a proposed Notice of Sale to the Governors for their comments on the size, timing, and location of the proposed sale. The tentative schedule for the steps in the prelease decision process for Sale 182 is listed below:

- Comments due to MMS no later than 30 days from the publication date of this Notice;
- EA/FONNSI or Supplemental EIS, October 2001;
- Consistency Determinations sent to States, October 2001;
- Proposed Notice of Sale sent to Governors, November 2001;
- Final Notice of Sale in **Federal Register**, February 2002;
- Sale, March 2002.

Public Comment

The MMS requests interested parties to submit comments regarding any such new information or issues that should be addressed in the EA to Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5400), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 no later than 30 days from the publication date of this Notice.

Dated: April 27, 2001.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 01–12743 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf Official Protraction Diagrams

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of revised Outer Continental Shelf Leasing Maps and Official Protraction Diagrams.

SUMMARY: Notice is hereby given that effective with this publication, the NAD 27-based Outer Continental Shelf Leasing Maps and Official Protraction Diagrams last revised on the date indicated, are on file and available for information only, in the Gulf of Mexico OCS Regional Office, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Copies of Leasing Maps and Official Protraction Diagrams (OPDs) are $2.00 each. These may be purchased from the Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Mangement Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519 or (800) 200–GULF.

SUPPLEMENTARY INFORMATION: In accordance with Title 43, Code of Federal Regulations, the following maps and diagrams are the basic record for the description of mineral and oil and gas lease sales in the geographic areas they represent.

OUTER CONTINENTAL SHELF LEASING MAPS AND OFFICIAL PROTRACTION DIAGRAMS IN THE CENTRAL GULF OF MEXICO PLANNING AREA

	Description	Date
LA1	West Cameron Area	November 1, 2000.
LA1A	West Cameron Area, West Addition	November 1, 2000.
LA1B	West Cameron Area, South Addition	November 1, 2000.
LA2	East Cameron Area	November 1, 2000.
LA2A	East Cameron Area, South Addition	November 1, 2000.
LA3	Vermilion Area	November 1, 2000.
LA3A	South Marsh Island Area	November 1, 2000.
LA3B	Vermilion Area, South Addition	November 1, 2000.
LA3C	South Marsh Island Area, South Addition	November 1, 2000.
LA3D	South Marsh Island Area, North Addition	November 1, 2000.
LA4	Eugene Island Area	November 1, 2000.
LA4A	Eugene Island Area, South Addition	November 1, 2000.
LA5	Ship Shoal Area	November 1, 2000.
LA5A	Ship Shoal Area, South Addition	November 1, 2000.
LA6	South Timbalier Area	November 1, 2000.
LA6A	South Timbalier Area, South Addition	November 1, 2000.
LA6B	South Pelto Area	November 1, 2000.
LA6C	Bay Marchand Area	November 1, 2000.
LA7	Grand Isle Area	November 1, 2000.
LA7A	Grand Isle Area, South Addition	November 1, 2000.
LA8	West Delta Area	November 1, 2000.
LA8A	West Delta Area, South Addition	November 1, 2000.
LA9	South Pass Area	November 1, 2000.
LA9A	South Pass Area, South and East Addition	November 1, 2000.
LA10	Main Pass Area	November 1, 2000.
LA10A	Main Pass Area, South and East Addition	November 1, 2000.
LA10B	Breton Sound Area	November 1, 2000.
LA11	Chandeleur Area	November 1, 2000.
LA11A	Chandeleur Area, East Addition	November 1, 2000.
LA12	Sabine Pass Area	November 1, 2000.
NG15–03	Green Canyon	November 1, 2000.
NG15–06	Walker Ridge	November 1, 2000.
NG16–01	Atwater Valley	November 1, 2000.
NG16–04	Lund	November 1, 2000.
NG16–07	Lund South	November 1, 2000.
NH15–12	Ewing Bank	November 1, 2000.

OUTER CONTINENTAL SHELF LEASING MAPS AND OFFICIAL PROTRACTION DIAGRAMS IN THE CENTRAL GULF OF MEXICO PLANNING AREA—Continued

	Description	Date
NH16–04 ..	Mobile	November 1, 2000.
NH16–07 ..	Viosca Knoll	November 1, 2000.
NH16–10 ..	Mississippi Canyon	November 1, 2000.

Note: NG15–09 Amery Terrace was previously revised October 25, 2000.

OUTER CONTINENTAL SHELF LEASING MAPS AND OFFICIAL PROTRACTION DIAGRAMS IN THE WESTERN GULF OF MEXICO PLANNING AREA

TX1	South Padre Island Area	November 1, 2000.
TX1A	South Padre Island Area, East Addition	November 1, 2000.
TX2	North Padre Island Area	November 1, 2000.
TX2A	North Padre Island Area, East Addition	November 1, 2000.
TX3	Mustang Island Area	November 1, 2000.
TX3A	Mustang Island Area, East Addition	November 1, 2000.
TX4	Matagorda Island Area	November 1, 2000.
TX5	Brazos Area	November 1, 2000.
TX5B	Brazos Area, South Addition	November 1, 2000.
TX6	Galveston Area	November 1, 2000.
TX6A	Galveston Area, South Addition	November 1, 2000.
TX7	High Island Area	November 1, 2000.
TX7A	High Island Area, East Addition	November 1, 2000.
TX7B	High Island Area, South Addition	November 1, 2000.
TX7C	High Island Area, East Addition, South Extension	November 1, 2000.
TX8	Sabine Pass Area	November 1, 2000.
NG14–03	Corpus Christi	November 1, 2000.
NG14–06	Port Isabel	November 1, 2000.
NG15–01	East Breaks	November 1, 2000.
NG15–02	Garden Banks	November 1, 2000.
NG15–04	Alaminos Canyon	November 1, 2000.

Note: NG15–05 Keathley Canyon and NG15–08 Sigsbee Escarpment were previously revised November 1, 2000.
Note: In most cases, there are no changes to block boundaries or acreage due to these revisions. However, users are cautioned to check carefully any areas of interest.

A CD–ROM (in ARC/INFO (.gra files) format, and in Acrobat (.pdf files) format) containing all of the Gulf of Mexico Leasing Maps and Official Protraction Diagrams in the Central and Western Gulf Planning Areas is available from the MMS Gulf of Mexico Regional Office Public Information Unit for a price of $15.00. These Leasing Maps and Official Protraction Diagrams are also available on our Internet site, *http://www.gomr.mms.gov/homepg/lsesale/mapdiag.html.* Also available on the CD-ROM and our Internet site are the Official Protraction Diagrams in the Eastern Gulf Planning Area that are in digital format.

Dated: May 15, 2001.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 01–12744 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–MR–U

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meeting of Concessions Management Advisory Board

AGENCY: National Park Service, Interior.

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), notice is hereby given that the Concessions Management Advisory Board will hold its fifth meeting May 30 and 31, 2001, in the Grand Canyon National Park, Arizona. The meeting will be held at the Shrine of Ages on the South Rim of the Grand Canyon National Park. The meeting will convene at 9 a.m. on May 30th in the auditorium at the Shrine of Ages. The meeting will conclude on Thursday afternoon, May 31.

SUPPLEMENTARY INFORMATION: The Advisory Board was established by Title IV, Section 409 of the National Park Omnibus Management Act of 1998, November 13, 1998 (Public Law 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System.

The agenda includes the following subjects:

- Discussion and evaluation of the handcraft issue and visits to various retail outlets.
- Review and discussion of Concession Program Business Plan prepared by Price Waterhouse Coopers.
- Discussion of recent Congressional oversight hearings.

The Board will also discuss its organizational and administrative needs.

The meeting will be open to the public, however, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive

listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks (2 weeks) before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for its.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Interested persons may make oral/written presentations to the Advisory Board during the business meeting or file written statements. Such requests should be made to the Director, National Park Service, attention: Manager, Concession Program at least 7 days prior to the meeting. Further information concerning the meeting may be obtained from National Park Service, Concession Program Division, 1849 C St., NW., Rm. 7313, Washington, DC 20240, Telephone 202/565–1210.

Draft minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting, in room 7313, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: May 3, 2001.

Denis P. Galvin,

Acting Director, National Park Service.

[FR Doc. 01–12680 Filed 5–18–01; 8:45 am]

BILLING CODE 4310–70–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting; Cancellation of Meeting

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 66, No. 93, at 24409, May 14, 2001.

TIME AND DATE: 2:00 p.m., Thursday, May 17, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The Commission meeting to consider and act upon *Sec'y of Labor on behalf of Bernardyn* v. *Reading Anthracite Co.,* Docket Nos. PENN 99–129–D, etc., has been canceled. No earlier announcement of the cancellation was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629 / (202) 708–9300 for TDD Relay / 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 01–12846 Filed 5–17–01; 12:50 pm]

BILLING CODE 6735–01–M

NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Notice of Approval of Florida Proposal

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Notice of approval of Florida proposal.

SUMMARY: Pursuant to 28 CFR chapter IX, the Compact Council established by the National Crime Prevention and Privacy Compact has approved a proposal from the State of Florida authorizing access to the Interstate Identification Index (III) system on a delayed fingerprint submission basis for conducting criminal history record checks in connection with the placement of children with temporary custodians on an emergency basis. In approving the proposal, the Compact Council took note of the recommendation of the Criminal Justice Information Services Advisory Policy Board to allow governmental agencies authorized by an approved state statute to conduct ''preliminary III name checks'' for all persons occupying the residence at the time when children are placed in such residences on an emergency basis.

The approved proposal authorizes III access on a delayed fingerprint submission basis by the Florida Department of Children and Family Services which is authorized to make emergency placements of children by a Florida statute which has been approved by the U.S. Attorney General pursuant to Pub. L. 92–544. Pursuant to the approved proposal, fingerprints are to be submitted as a follow-up to the III name-based check within five working days from such time the name checks are conducted. For the purposes of the proposal, working day is defined as a day when a governmental agency is open for business.

Pursuant to Section 901.3 of 28 CFR, chapter IX, other States may apply to the FBI's Compact Officer for authority to grant delayed fingerprint submission access to governmental agencies authorized by approved state statutes to make emergency child placements. Such application must explain why the submission of fingerprints contemporaneously with search requests is not feasible and must justify the length of the requested delay in the submission of such fingerprints.

Proposals should be sent to the FBI's Compact Officer at Criminal Justice Information Services, Attn: FBI Compact Officer, 1000 Custer Hollow Road, Clarksburg, WV 26306.

Dated: May 3, 2001.

Wilbur Rehmann,

Chairman, Compact Council.

[FR Doc. 01–12534 Filed 5–18–01; 8:45 am]

BILLING CODE 4410–02–U

NUCLEAR REGULATORY COMMISSION

Meeting Concerning the Revision of the Oversight Program for Nuclear Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of public meeting.

SUMMARY: NRC will hold a public meeting in Lynchburg, VA to provide the local public, facility employees, citizens' groups, and local officials with information about, and an opportunity to provide views on, how the NRC plans to revise and improve its oversight program for commercial nuclear fuel cycle facilities regulated under 10 CFR parts 40, 70, and 76. The facilities include gaseous diffusion plants, high- and low-enriched uranium fuel fabrication facilities, and a uranium hexafluoride (UF_6) production plant. These facilities possess large quantities of materials that are potentially hazardous (radioactive, toxic, or flammable) to workers, the public, or the environment. Also, some of the facilities possess information and material important to national security. Two of these regulated facilities, BWX Technologies and Framatome, are located in Lynchburg.

The goal of this revision project is to have an oversight program that: (1) Provides earlier and more objective indications of facility performance in the areas of safety and national security, (2) increases stakeholder confidence in the NRC, and (3) increases regulatory effectiveness, efficiency, and realism. To this end, the NRC is striving to make the oversight program more risk-informed and performance-based. The oversight revision project is described in SECY–99–188, ''Evaluation and Proposed Revision of the Nuclear Fuel Cycle Facility Safety Inspection Program,'' and in SECY–00–0222, ''Status of Nuclear Fuel Cycle Facility Oversight Program Revision.'' SECY–99–188 and SECY–

00–0222, as well as other background information, are available in the Public Document Room and on the NRC Web Page at *http://www.nrc.gov.*

PURPOSE OF MEETING: To obtain stakeholder views for improving the NRC oversight program for ensuring fuel cycle licensees and certificate holders maintain protection of worker and public health and safety, protection of the environment, and safeguards for special nuclear material and classified matter in the interest of national security. The public meeting will focus on the revisions that are being made to the program, and on how interested parties can provide input to the change process.

DATE AND LOCATION: Members of the public, industry, and other stakeholders are invited to attend and participate in the meeting, which is scheduled for 9:30 to 10:00 a.m. on Thursday, May 31, 2001. The meeting will be held at the Lynchburg Technology Center, which is located at 1574 Mount Athos Road, Lynchburg, VA 24501.

FOR FURTHER INFORMATION, CONTACT: Patrick Castleman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–8118, e-mail *pic@nrc.gov.*

Dated at Rockville, Maryland, this 15th day of May, 2001.

For the Nuclear Regulatory Commission,

Patrick Castleman,

Project Manager, Inspection Section, Safety and Safeguards Support Branch, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 01–12692 Filed 5–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 21, 28, June 4, 11, 18, 25, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED: Week of May 21, 2001

There are no meetings scheduled for the Week of May 21, 2001.

Week of May 28, 2001—Tentative

Wednesday, May 30, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (if needed)

Week of June 4, 2001—Tentative

Tuesday, June 5, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)
2 p.m.—Discussion of Management Issues (Closed-Ex.2)

Wednesday, June 6, 2001

10:30 a.m.—All Employees Meeting (Public Meeting)
1:30 p.m.—All Employees Meeting (Public Meeting)

Week of June 11, 2001—Tentative

Thursday, June 14, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)
9:30 a.m.—Meeting with Nuclear Waste Technical Review Board (Public Meeting)
1:30 p.m.—Briefing on License Renewal Program (Public Meeting) (Contact: David Solorio, 301–415–1973)

Week of June 18, 2001—Tentative

There are no meetings scheduled for the Week of June 18, 2001.

Week of June 25, 2001—Tentative

Wednesday, June 27, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

* 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.

ADDITIONAL INFORMATION: By a vote of 5–0 on May 7 and 8, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Northeast Nuclear Energy Company'' (Millstone Nuclear Power Station, Unit No. 3; Facility Operating License NPF–49) Partial Review of LBP–00–26 (10/26/00), as directed by CLI–01–03 (1/17/01) Regarding Interpretation of GDC 62, Prevention of Criticality in Fuel Storage & Handling'' be held on May 10, and on less than one week's notice to the public.

By a vote of 5–0 on May 10, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Carolina Power and Light Company (Shearon Harris Nuclear Power Plant), Docket No. 50–400–LA, LBP–00–12, LBP–00–19, and LBP–01–09'' be held on May 10, and on less than one week's notice to the public.

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: May 17, 2001.

Sandra M. Joosten,

Executive Assistant, Office of the Secretary.

[FR Doc. 01–12832 Filed 5–17–01; 12:13 pm]

BILLING CODE 7590–01–M

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget (OMB Control Number 0420–0531).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C., Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request for approval of information collections, OMB Control Number 0420–0531, the Career Information Consultants waiver form. The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collections information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. A copy of the information collection may be obtained from Ms. Elvira May, Office of Returned Volunteer Services, Peace Corps, 1111 20th Street, NW, Room 2134, Washington, DC 20526. Ms. May can be contacted by telephone at 202–692–1445 or 800–424–8580 ext 1445. Comments on the form should also be addressed to the attention of Ms. May and should be received on or before July 20, 2001.

Information Collection Abstract

Title: Career Information Consultants waiver form.

Need for and Use of this Information: This form is completed voluntarily by returned Peace Corps Volunteers and professionals in specific career fields. This information will be used by Returned Volunteer Services to assist returned Peace Corps Volunteers with re-entry transition issues. Participation in this program also fulfills the third goal of the Peach Corps as required by Congressional legislation and to enhance the Returned Volunteer Services' outreach program.

Respondents: Returned Peace Corps Volunteers.

Respondent's Obligation to Reply: Voluntary.

Burden on the Public:

a. *Annual reporting burden:* 417 hours.

b. *Annual record keeping burden:* 0 hours.

c. *Estimated average burden per response:* 5 minutes.

d. *Frequency of response:* annually.

e. *Estimated number of likely respondents:* 5,000.

f. *Estimated cost to respondents:* $0.00.

At this time, responses will be returned by mail.

This notice is issued in Washington, DC, on May 7, 2001.

Dough Warnecke,

Acting, Chief Information Officer and Associate Director for Management.

[FR Doc. 01–12616 Filed 5–18–01; 8:45 am]

BILLING CODE 6051–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of an Information Collection: RI 20–64 and RI 20–64A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of an information collection. RI 20–64, Former Spouse Survivor Annuity Election, is a form used by the Civil Service Retirement System to provide information about the amount of annuity payable after a survivor reduction and to obtain a survivor benefits election form from annuitants who are eligible to elect to provide survivor benefits for a former spouse. RI 20–64A, Information on Electing a Survivor Annuity for Your Former Spouse, is a pamphlet that provides important information to retirees under the Civil Service Retirement System who want to provide a survivor annuity for a former spouse.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; 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.

Approximately 30 RI 20–64 forms are completed annually. The form takes approximately 45 minutes to complete. The annual estimated burden is 23 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before July 20, 2001.

ADDRESSES: Send or deliver comments to: Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349A, Washington, DC 20415.

For Information Regarding Administrative Coordination, Contact: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01–12620 Filed 5–18–01; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: Form RI 95–4

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for review of a revised information collection. RI 95–4, Marital Information Required of Refund Applicants, is used by OPM to pay refunds of retirement contributions when the information is not included on the SF 3106, Application for Refund of Retirement Deductions (FERS). To pay these benefits, all applicants for refund must provide information to OPM about their marital status and whether any spouse(s) or former spouse(s) have been informed of the proposed refund.

Approximately 2,600 RI 95–4 forms will be completed annually. We estimate it takes approximately 30 minutes to complete the form. The annual burden is 1,300 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before June 20, 2001.

ADDRESSES: Send or deliver comments to:

John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

For Information Regarding Administrative Coordination—Contact: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01–12621 Filed 5–18–01; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Civilian Acquisition Workforce Personnel Demonstration Project; Department of Defense (DoD)

AGENCY: Office of Personnel Management.

ACTION: Notice of amendment to this demonstration to make technical corrections to the list of occupational series included in the project and to change pay setting procedures for

Federal employees entering the project after initial implementation.

SUMMARY: Section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104–106; 10 U.S.C.A. 1701 note), as amended by section 845 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105–85), permits the Department of Defense (DoD), with the approval of OPM, to conduct a personnel demonstration project within the Department's civilian acquisition workforce and those supporting personnel assigned to work directly with the acquisition workforce. This notice amends the project plan for this demonstration to: (1) Correct discrepancies in the list of occupational series included in the project and (2) allow managers the authority to offer a buy-in to Federal employees entering the demonstration project after initial implementation.

DATES: This amendment is effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: *DoD:* Anthony D. Echols, Civilian Acquisition Workforce Personnel Demonstration, 2001 North Beauregard Street, Suite 750, Alexandria, VA 22311, 703–578–2755. *OPM:* Mary Lamary, U.S. Office of Personnel Management, 1900 E Street NW., Room 7460, Washington, DC 20415, 202–606–2820.

SUPPLEMENTARY INFORMATION:

1. Background

OPM approved and published the project plan for the Civilian Acquisition Workforce Personnel Demonstration Project in the **Federal Register** on January 8, 1999 (Volume 64, Number 5, part VII). This demonstration project involves hiring and appointment authorities; broadbanding; simplified classification; a contribution-based compensation and appraisal system; revised reduction-in-force procedures; academic degree and certificate training; and sabbaticals.

2. Overview

The project plan listed two occupational series in the wrong career path, listed one series in two career paths, and omitted a series to which at least one demonstration participant is assigned. This notice corrects these errors.

For examples who enter the project after initial implementation by lateral transfer, reassignment, or realignment, the project did not give managers the authority to offer a base payment adjustment for accrued within-grade increases and/or career ladder promotions.

This notice gives managers that authority.

Dated: May 11, 2001.

Office of Personnel Management.

Steven R. Cohen,

Acting Director.

I. Executive Summary

The project was designed by a Process Action Team (PAT) under the authority of the Under Secretary of Defense for Acquisition and Technology, with the participation of and review by DoD with the Office of Personnel Management (OPM). The purpose of the project is to enhance the quality, professionalism, and management of the DoD acquisition workforce through improvements in the human resources management system

II. Introduction

This demonstration project provides managers, at the lowest practical level, the authority, control, and flexibility they need to achieve quality acquisition processes and quality products. This project not only provides a system that retains, recognizes, and rewards employees for their contribution, but also supports their personal and professional growth.

A. Purpose

The purpose of this notice is to correct discrepancies in the list of occupational series included in the project and to give managers the authority to offer an adjustment in base pay for accrued within-grade increases and/or career ladder promotions. No other changes are made to the sections referred to herein. The changes are hereby made to the **Federal Register**, Part VII, Civilian Acquisition Workforce Personnel Demonstration Project; Department of Defense; Notice, Volume 64, Number 5, Friday, January 8, 1999; Section II.F., Table 2 and Section V.A. as outlined in the following paragraphs.

B. Employee Notification and Collective Bargaining Requirements

The demonstration project program office will notify employees of this amendment by posting it on the demonstration's web page (*www.acqdemo.com*). Participating organizations must fulfill any collective bargaining obligations to unions that represent employees covered by the demonstration.

III. Personnel System Changes

Occupational Series Included in the Project

Correct Section II.F., Table 2, Series Included in the DoD Acquisition Workforce Personnel Demonstration Project, as follows:

Technical Management Support (NJ): Add series 0342, Support Services Administration, and series 0682, Dental Hygiene. Delete series 2135, Transportation Loss and Damage Claims Examining, and series 2151, Dispatching.

Administrative Support (NK): Delete Series 0342, Support Services Administrator. Add series 2151, Dispatching.

Employees Entering the Demonstration Project After Initial Implementation

Change that last sentence in the first paragraph of V.A. to read: This conversion process (i.e., ''buy-in'') is applicable to employees at the initial entry of their organization into the demonstration project in accordance with the approved implementation plan and subsequently upon an individual's lateral transfer, reassignment, or realignment into the demonstration project. (For purposes of this demonstration, ''lateral transfer'' is defined as a reassignment across Agencies without a change in rate of basic pay, except as provided by any within-grade increase or career-ladder ''buy-in'' paid upon conversion.)

Change the last sentence in the third paragraph of V.A. to read: Employees who enter the demonstration project after initial implementation by lateral transfer, reassignment, or realignment will be subject to the same pay conversion rules. Specifically, adjustments to the employee's base salary for a step increase and a non-competitive career ladder promotion will be computed as a prorated share of the current value of the step or promotion increase based upon the number of weeks an employee has completed toward the next higher step or grade at the time the employee moves into the project, consistent with paragraph VIII.A.

[FR Doc. 01–12622 Filed 5–18–01; 8:45 am]

BILLING CODE 6325–43–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44306; File No. SR–NYSE–2001–10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Its Allocation Policy Relating to Exchange-Traded Funds Traded on an Unlisted Trading Privileges Basis

May 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 14, 2001, the New York Stock Exchange, Inc. (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The proposed rule change has been filed by the NYSE as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend its Allocation Policy (''Policy'')[4] for allocating Exchange-Traded Funds (''ETFs'') traded on an unlisted trading privileges (''UTP'') basis to specify that specialist units may appear before the special committee responsible for allocating ETFs.

Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in brackets.

* * * * *

Policy for Allocation of Exchange-Traded Funds Admitted to Trading on the Exchange on an Unlisted Trading Privileges Basis

Exchange-traded funds (''ETFs'') (as defined in paragraph 703.16 of the Listed Company Manual) admitted to trading on the Exchange on an unlisted trading privileges basis shall be allocated pursuant to this Policy rather than the Exchange's policy for allocating securities to be listed on the Exchange.

ETFs shall be allocated by a special committee consisting of the Chairman of the Allocation Committee, the three most senior Floor broker members of the Allocation Committee, and four members of the Exchange's senior management as designated by the Chairman of the Exchange. This committee shall solicit allocation applications from interested specialist units, and shall review the same performance and disciplinary material with respect to specialist unit applicants as would be reviewed by the Allocation Committee in allocating listed stocks. The committee shall reach its decisions by majority vote with any tie votes being decided by the Chairman of the Exchange. Specialist unit applicants [shall not] *may* appear before the committee.

Special Criteria

In their allocation applications, specialist units must demonstrate:

(a) An understanding of the trading characteristics of ETFs;

(b) Expertise in the trading of derivatively-priced instruments;

(c) Ability and willingness to engage in hedging activity as appropriate;

(d) Knowledge of other markets in which the ETF to be allocated trades;

(e) Willingness to provide financial and other support to Exchange marketing and educational initiatives with respect to the ETF to be allocated.

Allocation Freeze Policy

The Allocation Freeze Policy as stated in the Allocation Policy for listed stocks shall apply.

Prohibition on Functioning as Specialist in ETF and Specialist in any Component Security of the ETF

No specialist member organization may apply to be allocated an ETF if it is registered as specialist in any security which is a component of the ETF. A specialist member organization which is registered as specialist in a component stock of an ETF may establish a separate member organization which may apply to be the specialist in an ETF. The approved persons of such ETF specialist member organization must obtain an exemption from specified specialist rules pursuant to Rule 98.

If, subsequent to an ETF being allocated to a specialist member organization, a security in which the specialist member organization is registered as specialist becomes a component security of such ETF the specialist organization must (1) withdraw its registration as specialist in the security which is a component of the ETF; (ii) withdraw its registration as specialist in the ETF; or (iii) establish a separate specialist member organization, which will be registered as specialist in the ETF and whose approved persons have received an exemption from specified specialist rules pursuant to Rule 98.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

According to the Exchange, the intent of its current Policy is: (1) To ensure that the allocation process is based on fairness and consistency and that all specialist units have a fair opportunity for allocations based on established criteria and procedures; (2) to provide an incentive for ongoing enhancement of performance by specialist units; (3) to provide the best possible match between specialist unit and security; and (4) to contribute to the strength of the specialist system.

The Exchange recently modified its conventional allocation process to provide that ETFs traded on a UTP basis be allocated by a special committee, and to establish special criteria to be considered by the special committee.[5]

This current Policy for ETFs trading on a UTP basis states that specialist units shall not appear before the special committee. The Exchange proposes to amend its Policy to specify that specialist units *may* meet with the special committee. The Exchange has determined that due to the unique aspects of certain ETF products, it may be helpful for the special committee to meet with the interview specialist units before making an allocation decision.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act[6] in general, and furthers the objectives of section 6(b)(5) of the Act[7] in particular, because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The NYSE recently amended its Policy to provide special procedures and to establish a new allocation committee for ETFs. The Commission accelerated approval of these amendments on a pilot basis through May 7, 2002. *See* Securities Exchange Act Release No. 44272 (May 7, 2001) (File No. SR–NYSE–2001–07).

[5] *See* note 4 *supra.*

[6] 15 U.S.C 78f(b).

[7] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A)[8] of the Act and Rule 19b–4(f)(6)[9] thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The NYSE seeks to have the proposed rule change become operative immediately to allow it to begin the process of selecting specialists to enable ETFs to trade on a UTP basis.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately as of May 15, 2001, because the proposed amendment to the NYSE's Policy effects a minor change with respect to the allocation of ETF's listed and traded on the Exchange on a UTP basis.[11] The Commission notes that the NYSE's Policy regarding ETFs traded on a UTP basis was approved on a pilot basis.[12] Thus, the instant proposed rule change is operative as of May 15, 2001 through May 7, 2002. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld form the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–10 and should be submitted by June 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–12691 Filed 5–18–01; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] *See* note 4 *supra.*

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3673]

Bureau of Educational and Cultural Affairs Request for Grant Proposals (ECA/PE/C/CU–01–64): Creative Arts Exchange Programs for Africa, East Asia and the Pacific, and Central Asia

SUMMARY: The Cultural Programs Division of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for assistance awards for international Creative Arts Exchanges. Public and private U.S. non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to conduct programs for Cultural Tourism in Africa; Performing Arts Presenters in East Asia and the Pacific; or Protecting Cultural Heritage: Film And Documentary Archives In Central Asia.

Program Information

Overview: The Bureau of Educational and Cultural Affairs (ECA) invites applicants to submit proposals that promote the institutional capacity, professional expertise and economic viability of arts institutions and cultural entities in Africa, East Asia and the Pacific, and Central Asia. Programs supported by the Creative Arts Exchanges grants should create or expand ongoing institutional partnerships, and offer experiential learning activities, and share methods and materials that will enhance the development of their cultural institutions and management skills. This program is not academic in nature; programs should be designed to provide practical, hands-on experience.

Guidelines: The proposal should anticipate a grant period that will begin no earlier than September 1, 2001.

Competitive proposals usually have the following characteristics: (1) An active, existing partnership between a U.S. organization and the foreign partner institution(s), or strong potential to develop a sustainable, productive partnership; (2) a proven successful track record for conducting similar program activity; (3) experienced staff with knowledge of the region and local language(s) ability; (4) a clear and reasonable implementation plan and well-articulated expected outcomes; (5) a two-way exchange; and (6) concrete ideas for possible follow-on activities to take place after the funded grant period.

Proposals should reflect a practical understanding of the current cultural, political, economic and social environment that is relevant to the theme addressed in the proposal.

Proposals should also indicate a strong knowledge of cultural activities and organizations working in the region. Applicants should identify the U.S. and foreign partner organizations and individuals with whom they are proposing to collaborate and describe in detail previous cooperative projects in the section on ''Institutional Capacity.'' Proposals should give an indication that the program ideas were jointly developed between the American and foreign organization(s). Resumes for proposed U.S. and foreign staff, trainers, consultants should be included in the proposal.

Unless otherwise specified below: (1) Program activities may include: A cost-effective needs assessment; an open, merit-based selection process; short-term training; study tours; consultations; site visits; internships; performances or exhibits; a specific group project; and extended, intensive workshops; (2) Programming should include a U.S. exchange component for foreign participants; (3) In-country activities should be designed to reach a wide audience and give the exchange participants an opportunity to be co-leaders on workshops, (4) Orientation sessions are required for both foreign and U.S. participants, and (5) The project should include activities that promote two-way exchanges and allow the foreign program participants to experience American life and culture, and that will provide Americans an opportunity to learn about the culture of the partner's country.

Programs should be designed so that collaboration and information sharing that occurs during the grant period will continue long after the grant period is over. Proven methods of sustainability include, but are not limited to: A commitment to create or support joint or in-country cultural projects; joint activities recognized by the international community; regularly published electronic and/or hard-copy newsletters; and ongoing mentoring through Internet communication or other means.

To be considered for a grant award in this competition, the proposed exchange program must address one of the following themes:

- *Cultural Tourism* (Single-Country Program with Ghana, Mali or Niger)
- *Performing Arts Presenters* (Single-Country/City Program with Indonesia, Korea, Vietnam or Hong Kong)
- *Protecting Cultural Heritage: Film And Documentary Archives In Central Asia* (Single- or Multiple-Country Program with the Central Asian countries of the New Independent States: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan)

Cultural Tourism

Overview: For many African countries there are few opportunities on a local or regional level to carve out a viable sector of the nation's economy. Africa's rich culture and traditions, and historical links to the global community, provide an environment unmatched in its potential for establishing a strong cultural tourism industry. Cultural tourism encourages increased involvement in the historical growth of a region, responsible stewardship of local resources, develops the local economy, and strengthens educational institutions. An established tourist industry will also provide a foundation for grassroots business development.

Museums and other culturally important sites are the gateway to tourism development, the focal point from which the tourist industry expands. Each African country has its own history, resources and professional expertise from which to establish the historical cultural tourism industry. The goals of this program are threefold: (1) To create and enhance ongoing international partnerships between specific sites in the U.S. and the African countries participating in this program, (2) to bring African and American visual arts and cultural heritage professionals together in a global arena, and (3) to comprehensively improve a specific culturally important site that will result in increased cultural tourism for the region.

Program Guidelines: Applicants are invited to submit a proposal for a two-way exchange program focusing on cultural tourism in Ghana, Mali or Niger. The program may be centered on a specific cultural site (e.g. museum, nature preserve, historical landmark, archaeological site, etc.). The program plan should indicate a balanced exchange of participants, build on an existing foundation, and include joint work for the enhancement of interpretive and educational programming and other components marketable in the area of international tourism.

Applicants are strongly encouraged to focus on the following themes when developing proposals:

Ghana: Slave Routes within Ghana. The program should focus on the northern region in Ghana, using lessons learned from the existing, well-established tourist trade on the coast of the central region.

Mali: Archaeological Tourism and Cultural Heritage. The proposal should focus on conserving and developing for tourism the archaeological sites of Jenne-Jenna and/or Mopti. This program will build on an assessment conducted by American Cultural Specialists on a previous ECA grant.

Niger: Eco/Cultural Tourism with Rock Art or Dinosaur Fossil Beds. The program should analyze the potential to study, conserve and develop for tourism Niger's dinosaur fossil beds and 8,000-year-old rock art.

The program plan should follow the program and budget guidelines included in this RFGP. In addition, the proposal should include the following components:

- Assessment site visit, if necessary.
- Video Documentation of the cultural site development throughout the grant period, conducted jointly with local staff to ensure the continuation of documentation after the grant period ends.
- At least one seminar on general museology, the role of museums in cultural tourism, and other relevant topics in cultural tourism for a wide audience. Target audience may include government officials at the local to ministry level, museum professionals, cultural specialists, tourist board, land management office, tourist agencies, national arts council and museums association. African and American participants should jointly plan and co-conduct the in-country seminars.

Additional program elements can include, but are not limited to:

- Creation of work plans to develop and run a cultural site or museum for the purpose of tourism development.
- Study tour of U.S. cultural heritage sites.
- Modest purchases of equipment or services.
- Development of educational and interpretive presentations and materials.

Program Participants: The U.S. grantee organization will recruit a mix of upper and mid-level professionals (decision makers and hands-on professionals) to participate in this program. The partner organizations will advertise to a wider target audience for the in-country seminar(s) on topics in cultural tourism.

Organizations planning to submit a proposal for Cultural Tourism in Africa are encouraged to contact the program office for a consultation before the submission deadline: Susie Baker *sbaker@pd.state.gov;* Tel: (202) 205–2209. Before calling, organizations should be ready to discuss a concrete concept specific to the guidelines supplied in this request for grant proposals.

Performing Arts Presenters

Overview: This project is intended to present opportunities for performing arts presenters in the U.S. to learn about management styles in Vietnam, Korea, Indonesia or Hong Kong and for their presenters to gain knowledge about the field in the U.S. The exchange will offer opportunities for arts managers to acquaint themselves with the range of performing artists in each other's country. Performing arts tours can help solve problems and reduce tensions caused by deep-rooted differences between the mindsets of Americans and citizens of other countries. Carrying out such exchanges is often hampered by the very cultural misperceptions that such tours hopefully can address, along, of course, with contractual misunderstanding, incompatible management styles, country-specific labor idiosyncrasies, intellectual property issues, mismatched venue expectations, etc. This program should create an arts management infrastructure that increases the access countries have to each other's performing arts groups and the cultural insight that such access brings. This cultural insight is particularly valuable to the U.S. at this time vis-à-vis Vietnam, Korea, Indonesia or Hong Kong—countries in which trade can be increased, human rights issues resolved, and bilateral tensions decreased more easily within a context of greater mutual understanding.

Program Guidelines: Applicants are invited to submit proposals for the Performing Arts Presenters program. The proposed program should facilitate the exchange of ideas and joint projects between arts presenters in the U.S. and one of the eligible countries listed above. Through joint collaboration and program elements designed to remove cross-cultural barriers, participants should examine the ideas, motivations, and presentation practices of their international counterparts, develop work plans, and participate in program activities that will help each side better understand how the other side operates.

Ideally, the program would culminate in an artistic exchange of performers from Indonesia, Korea, Vietnam or Hong Kong to the U.S. through cost sharing and/or third party funding. The goal of the program is to create an environment of mutual understanding and ongoing collaboration between performing arts presenters from different countries in order to achieve fruitful artistic exchanges.

Competitive proposals should include, but are not limited to, the following four components:

- Consultation/assessment visit by American arts presenters to Vietnam, Korea, Indonesia or Hong Kong: A team of seasoned American arts presenters will travel overseas to meet with leading arts presenters in the region, to increase their knowledge of performing arts presentations and assess performance philosophy and venues.
- Workshops in the U.S.: American experts in performing arts presentation will conduct workshops in the U.S. for foreign participants. Workshop topics should focus on legal, contractual, marketing, commercial and logistical issues involved with presenting American performing artists. Workshops should also address similarities and differences between performing arts organizations in the U.S. and overseas region, and an overview of the difficulties that American performing artists encounter when conducting overseas tours. Experiential workshops could also include case studies and problem solving exercises.
- National or regional conference for arts presenters: An opportunity for leading performing arts presenters from the overseas region to attend one of the national or regional conferences for arts presenters in the U.S., where the participants would have an opportunity to increase their understanding, with the aid of mentors, of trends in the arts presentation field and to view a wide range of performing artists. At the conclusion of this component, the American and foreign arts presenters will develop proposals and timelines to present specific artists in each other's country.
- Seminar or presentation for performing arts presenters in the overseas region: The proposed plan should include at least one in-country seminar or presentation for a group of performing arts presenters on an issue related to the grant theme, to maximize cost-effectiveness and share expertise with a wider audience.

Program Participants: (1) The grantee organization will recruit American performing arts presenters for the initial assessment visit and final phase of the project, and (2) The grantee organization will recruit qualified foreign performing arts presenters in the overseas region.

Protecting Cultural Heritage: Film and Documentary Archives in Central Asia

Overview: Prior to the collapse of the Soviet Union, the national film archive in Moscow was the central and official government repository of most of the country's feature films, documentary films, and other historical audiovisual materials. With independence, the former Soviet Central Asian countries became responsible for preserving their own film and documentary heritage for use within their country and to share with foreign professionals and public audiences. But their archives lack the means to fully achieve this.

Program Guidelines: ECA invites applicants to submit proposals for an exchange program with documentary and film archives in Central Asia that will help them become economically viable, self-sustaining cultural and scientific institutions with the structure and specialized personnel able to maintain, preserve and restore the film and documentary records of Central Asia and make them available for research, study, public screenings and film exchanges with American archives. The proposed program would link a non-profit American cultural institution with a partner organization in some or all of the following countries: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. Through site inspections, film collection assessments, workshops, seminars, training sessions and other relevant activities, the American and overseas partners would cooperate in identifying and resolving priority preservation problems requiring immediate attention. Further program components should yield steps toward long-term solutions to other problems as identified and prioritized through a joint decision making process. These program elements should deal with such matters as copyright protection and intellectual property rights, archive administration and management, film and documentary exchanges with other institutions, technology development, economic growth and sustainability as well as cataloguing, conservation, and other film preservation practices.

The goal of the proposed exchange is to upgrade and strengthen Central Asian archives so they qualify for membership in the International Federation of Film Archives (FIAF), whose members include more than 100 institutions in over 63 countries which collect, restore, document and exhibit films. FIAF membership would provide the Central Asian archives with a number of benefits, including film loans and information on congresses, symposia and workshops on film preservation. More importantly, the archives would become part of an international network of technical advice and information exchange among the world's largest association of moving image archives, thus multiplying and maximizing the institutional linkage of the proposed exchange described here. Priority consideration will be given to the proposal that can achieve this goal.

In addition to the activities included in this RFGP's general program and budget guidelines, proposed funding would support the following specific activities.

- Site inspection to assess immediate and long-term preservation and archival issues, and to jointly plan an exchange visit to the U.S.
- Assessment of archival film holdings, examination of their cultural and historical significance, and evaluation of potential for film exchanges between the U.S. and the countries of Central Asia.
- Examination of archival relationships to local film production and distribution companies.
- In-country presentation(s) and discussions with a larger group of Central Asian film professionals on issues related to film preservation and archives, to maximize cost-effectiveness and share expertise with a wider audience.

The organization(s) awarded this grant will work closely with the program office on all aspects of program implementation and will maintain contact with the Public Affairs Section(s) of the U.S. embassy/ies regarding in-country phases of the program.

Organizations planning to submit a proposal for Film and Documentary Archives in Central Asia are strongly encouraged to contact the program office for a consultation before the submission deadline: Susan Cohen *scohen@pd.state.gov;* Tel: (202) 619–5792. Before calling, organizations should be ready to discuss a concrete concept specific to the guidelines supplied in this request for grant proposals.

Selection of Participants

To be competitive, proposals should include a description of an open, merit-based participant selection process, including recruitment methods, selection criteria and proposed reviewers. A sample application should be submitted with the proposal. In some cases, the applicant pool may be small due to the level of expertise required or nature of the program. An application process should still be carried out to (1) ensure fair selection, (2) give applicants a forum in which to address their personal and professional needs and program goals, (3) provide the ECA program office and U.S. embassy an opportunity to participate in the selection process, and (4) collect necessary information for travel documents and visas. Applicants should expect to carry out the entire selection process, but the ECA Program Office and the Public Affairs Section of the U.S. Embassy abroad should be consulted. ECA and the U.S. Embassies retain the right to nominate participants and to approve or reject participants recommended by the grantee institution. Priority must be given to foreign participants who have not traveled to the United States.

Visa Regulations

Foreign participants on programs sponsored by The Bureau are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations. Please refer to the Proposal Submission Instructions (PSI) for further information.

Project Funding

The funding available for Creative Arts Exchanges will be disbursed through grants to several organizations. Priority will be given to grant proposals with budgets ranging from $45,000 to $90,000. Organizations should not submit a budget that exceeds $90,000 in costs to be paid by ECA, however the overall budget may exceed $90,000 through cost sharing by the U.S. and foreign partner organization(s) and/or a third party funder. Approximately $270,000 has been allotted for this competition, but may be subject to change. ECA expects to announce the assistance awards recipients around late July 2001. Organizations with less than four years of experience in managing international exchange programs are limited to $60,000. Grants are subject to the availability of funds.

Budget Guidelines

Applicants must submit a comprehensive line item budget for the entire program based on the model in the Proposal Submission Instructions. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants should provide separate sub-budgets for each program component, phase, location, or activity. Applicants should include a budget narrative or budget notes for clarification of each line item.

Cost sharing: Since the Bureau's grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other sources of cost sharing, including financial and in-kind support. In kind contributions may include, but are not limited to, donations of airfares, hotel and/or housing costs, ground transportation, interpreters, room rentals and equipment. Proposals with substantial private sector support from foundations, corporations, and other institutions will be considered highly competitive. Please refer to the statement on cost sharing in the Proposal Submission Instructions.

Allowable costs for the program include the following:

1. *Transportation.* International and domestic airfares (per the Fly America Act), transit costs, ground transportation costs, and visas for U.S. participants to travel to the partner organization's country (J–1 visas for foreign participants to travel to the U.S. for travel funded by ECA's grant assistance are issued at no charge).

2. *Per Diem.* For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. For activities in the partner organization's country, ECA strongly encourages applicants to budget realistic costs that reflect the local economy. Domestic per diem rates may be accessed at: *http://www.policyworks.gov/* and foreign per diem rates can be accessed at: *http://www.state.gov/www/perdiems/index.html.*

3. *Interpreters.* Local interpreters with adequate skills and experience should be used for program activities. Typically, one interpreter is provided for every four visitors who require interpreting, with a minimum of two interpreters. ECA grants do not pay for foreign interpreters to accompany delegations from their home country. Salary costs for local interpreters must be included in the budget under general program costs. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

4. *Book and cultural allowance.* Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses only when they escort participants to cultural events. U.S. program staff, consultants, trainers and participants are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise or to conduct program components. Daily honoraria cannot exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts must be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop and translate materials for participants.

ECA strongly discourages the use of automatic translation software for the preparation of training materials or any information distributed to the group of participants or network of organizations. Costs for high-quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to the ECA Program Office with interim and final reports.

8. *Equipment.* Proposals may contain costs to purchase equipment for programming and partner organizations in the target country. Use of equipment purchased with grant funds must be significantly incorporated into the program plan. Eligible items include: Computers, printers, scanners, digital cameras, audio/video equipment, fax machines, copy machines, or other computer or office equipment. Costs for furniture are not allowed. Equipment costs must be kept to a minimum and are subject to approval by ECA.

9. *Working meal.* Only one working meal may be provided during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. The allowance may be used for incidental expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered under the terms of the ECA-sponsored ASPE health insurance policy. U.S. staff, consultants, trainers and participants will not be covered by the ECA-sponsored ASPE health insurance policy. Applicants are permitted to include costs in the program budget for U.S. participants' international travel insurance, for travel funded under this program.

12. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total requested from the Bureau. Proposals should show strong administrative cost-sharing contributions from the applicant, the partner organization and other sources.

Review of your budget will benefit from your professional judgment of costs for activities in the proposal. The Bureau is committed to containment of administrative expenses, consistent with overall program objectives and sound management principles. Program activities and line items to be cost-shared should be included in the narrative and the budget. Please refer to the Proposal Submission Instructions (PSI) for complete budget guidelines.

Announcement Title and Number

All communications with ECA concerning this Request for Grant Proposals (RFGP) should refer to the announcement title ''Creative Arts Exchanges FY01'' and reference number ECA/PE/C/CU–01–64.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. Proposals should adequately address each area of review. These criteria are not rank ordered.

1. Program Planning and Ability To Achieve Objectives

Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the included countries. Objectives should be reasonable and attainable. A detailed work plan should explain step-by-step how objectives will be achieved and should include an overall timetable for completion of major tasks for the entire grant period, and sample schedules for program components wherever possible. The substance of workshops, internships, seminars, presentations and/or consulting should be described in detail. Responsibilities of foreign partners should be clearly described.

2. Institutional Capacity

The proposal should include: (1) The U.S. institution's mission and date of establishment, (2) detailed information about the foreign partner institution's capacity and the history of joint projects, (3) descriptions of experienced staff members who will implement the program, and (4) relevant information that establishes a successful track record. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The narrative should demonstrate proven ability to handle logistics. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/region(s).

3. Cost Effectiveness and Cost Sharing

Overhead and administrative costs for the proposal, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Administrative costs should be less than twenty-five (25) per cent of the total funds requested from the Bureau. Applicants are encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, the foreign partner, and other sources should be included in the budget.

4. Program Evaluation

Proposals must include a plan and methodology to evaluate the program. The evaluation plan should show a clear link between program objectives and expected outcomes in the short- and medium-term, and provide a well-thought-out description of performance indicators and measurement tools. ECA recommends that the proposal include a draft survey questionnaire or other evaluation tool.

5. Multiplier Effect/Impact

Proposals should show how the program will strengthen long-term mutual understanding, institutionalization of program goals, and widespread sharing of information. Applicants should describe how responsibility and ownership of the program will be transferred to the foreign participants to ensure continued activity and impact. Programs that include convincing plans for sustainability will be given top priority.

6. Follow-On Activities

Proposals should provide a plan for continued follow-on activity (beyond the ECA-funded grant period) ensuring that the ECA-supported programs are not isolated events. Concrete examples of potential follow-on activities should be clearly described.

7. Support of Diversity

Proposals should demonstrate substantive support of ECA's policy on diversity. Program content (orientation, evaluation, program sessions, resource materials, follow-on activities) and program administration (selection process, orientation, evaluation) should address diversity in a comprehensive and innovative manner. Applicants should refer to the ''Diversity, Freedom and Democracy Guidelines'' on page

four of the Proposal Submission Instructions (PSI).

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be forwarded to panels of Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards resides with the Bureau's Grants Officer.

Submissions

Applicants must follow all instructions given in the Application Package. The applicant's original proposal and ten (10) copies should be sent to: U.S. Department of State, Ref.: ECA/PE/C/CU–01–64, Program Management, ECA/EX/PM, Room 336, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' and ''Budget'' sections of the proposal on a 3.5″ diskette. The Bureau will transmit these files electronically to the Public Affairs section at the U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process. Once the RFGP deadline has passed, Bureau staff may not discuss this competition in any way with applicants until the proposal review process has been completed.

Deadline for Proposals

All copies must be received by the U.S. Department of State, Bureau of Educational and Cultural Affairs, by 5 p.m. Washington, DC time on Thursday, June 21, 2001. Faxed documents will not be accepted at any time. The mailroom closes at 5:00 p.m. sharp; no late submissions will be accepted. Documents postmarked or sent by express mail or courier to arrive by June 21, 2001, but received at a later date, will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

To Download an Application Package Via the Internet

The entire Application Package (RFGP and PSI) may be downloaded from the Bureau's website at *http://exchanges.state.gov/education/rfps/.*

For Further Information Contact: *By mail:* United States Department of State, SA–44, Bureau of Educational and Cultural Affairs, Office of Citizen Exchanges (ECA/PE/C), Room 220, Washington, D.C. 20547 attn: Creative Arts Exchanges ECA/PE/C/CU–01–64;

By phone: Tel: (202) 619–4779; fax: 202–619–6315;

By e-mail: lproctor@pd.state.gov.

Interested applicants may request the Application Package, which includes the Request for Grant Proposals (RFGP) and the Proposal Submission Instructions (PSI). Please specify Creative Arts Exchanges ECA/PE/C/CU–01–64 on all inquiries and correspondence. All potential applicants should read the complete announcement before sending inquiries or submitting proposals.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *, to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau or program officers that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the U.S. Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements. Organizations will be expected to cooperate with the Bureau in evaluating their programs under the principles of the Government Performance and Results Act (GPRA) of 1993, which requires federal agencies to measure and report on the results of their programs and activities.

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal U.S. Department of State procedures.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal U.S. Department of State procedures.

Dated: May 7, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 01–12571 Filed 5–18–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice Number 3660]

Overseas Schools Advisory Council; Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Friday, June 15, 2001, at 9:30 a.m. in Conference Room 1105, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas, which are assisted by the Department of State and which are attended by dependents of U.S. Government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. The agenda includes a review of the recent activities of American-sponsored overseas schools and the overseas schools regional associations, a presentation on the status of education in the United States and its impact on American-sponsored overseas schools, a progress report on projects selected for the annual Program of Educational Assistance, and selection of a new Vice Chair of the Council.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should so advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, Room H328, SA–1, Washington, DC 20522–0132, telephone 202–261–8200, prior to June 5, 2001. Each visitor will be asked to provide a date of birth and Social Security number at the time of registration and attendance and must carry a valid photo ID to the meeting. All attendees must use the C Street entrance to the building.

Dated: May 7, 2001.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council, U.S. Department of State.

[FR Doc. 01–12752 Filed 5–18–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Automatic Dependent Surveillance-Broadcast (ADS–B) Link Decision

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of FAA public meetings on ADS–B Link Decision.

SUMMARY: The FAA is issuing this notice to advise the public of two meetings to: (1) Share information concerning the use of Automatic Dependent Surveillance-Broadcast (ADS–B) as a surveillance technology; (2) address the technical, manufacturing, and implementation aspects and issues of ADS–B; and (3) gain better insight into avionics implementation costs and feasibility associated with ADS–B.

DATES: The first meeting will be held June 6, 2001, from 9 a.m. to 4 p.m. The second meeting will be held June 25–26, 2001, running from 8:30 a.m.–4 p.m. and 8:30 a.m.–12 p.m. respectively.

ADDRESSES: The June 6 meeting will be held at Capital Gallery, 600 Maryland Avenue, SW., Suite 700 (BAE Systems), Washington, DC. The June 25–26 meeting will be held at the Aerospace Building, 901 D Street, SW., Suite 850 (BAE Systems), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Jones, CNS Systems Branch, ASD–140, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 358–5345; fax (202) 358–5298; e-mail ronnie.jones@faa.gov. Mr. Jones can provide additional details on meeting locations.

SUPPLEMENTARY INFORMATION: The purpose of the June 6 meeting is to: (1) Review how the FAA sees the use of ADS–B as a surveillance technology; (2) review the progress made by the FAA defining ADS–B configurations and applications; (3) review the technical evaluations, simulations and benefits analysis recently completed; and (4) review ongoing related work by the FAA. The outcome is to give avionics and aircraft manufacturers and airspace users enough information for the follow-up meeting where participants can help the FAA gain better insight into avionics implementation costs and feasibility. The agenda for the June 6 meeting will include:

- *Introductions and Objectives*
- *ADS–B Applications/Benefits* (identify ADS–B applications and resulting benefits; focus on near-term applications included in the Operational Evolution Plan and the cost-sharing proposals; address diversity of ADS–B applications and diversity fo users)
- *Technical Link Assessment (TLAT)* (provide overview of simulation results used by TLAT; discuss work accomplished and additional plans for simulation efforts since completion of TLAT report; discuss flight test results and validation of simulation models; provide summary of TLAT report; provide summary of what we do not yet know)
- *Cost Benefit Analysis (CBA)* (provide summary and discuss CBA report)
- *Operational Safety Assessment (OSA)* (provide summary and discuss OSA report)
- *Multi-Link Options* (describe multi-link configuration options; review consequences of a multi-link answer)
- *What We Do Not Know* (discuss spectrum availability)
- *Moving Forward* (review plans for follow-on meeting)

The purpose of the June 25–26 meeting is to discuss with avionics and aircraft manufacturers the issues and costs associated with implementing ADS–B alternatives and configurations. The FAA has the ground-based cost information, but needs the avionics implementation cost information to make the ADS–B link decision planned for September 2001.

Attendance is open to the interested public but limited to space availability. Persons wishing to attend or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC, on May 15, 2001.

John A. Scardina,

Director, FAA Office of System Architecture and Investment Analysis.

[FR Doc. 01–12726 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Future Flight Data Collection Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Future Flight Data Collection Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Flight Data Collection Committee.

DATES: The meeting will be held May 31, 2001 starting at 1 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue,

NW., Suite 1020, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Future Flight Data Collection Committee meeting. The agenda will include:

May 31

- Opening Session (Welcome, Introductory, and Administrative Remarks, Agenda Review, Review/Approve Summary of Previous Meeting.)
- Receive Reports on the deliberations of Working Groups 1, 2 and 3
- Discuss Timeline for Deliverables from the Working Groups
- Review progress on the Final Report
- Receive Presentations
- Closing Session (Other Business, Establish Agenda for Next Meeting, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on May 15, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12723 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/ EUROCAE Working Group 44: Terrain and Airport Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 193/EUROCAE Working Group 44 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases.

DATES: The meeting will be held June 4–8, 2001 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1140 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting. The agenda will include:

June 4

- Opening Plenary Session (Welcome and Introductory Remarks, Review/Approval of Meeting Agenda, Review Summary of Previous Meeting)
- Presentations/Discussions of formation of new Subgroup 4 (Terrain and Airport Data Exchange Formats)
- Subgroup 2 (Terrain and Obstacle Databases):
  - —Review past minutes and actions; Presentations; Review of draft document
- Subgroup 3 (Airport Databases):
  - —Review past minutes and actions; Begin Final Review and Comment (FRAC)
  - Process for the *User Requirements for Aerodrome Mapping Information* document

June 5, 6, 7

- Subgroups 2 and 3 continue discussions

June 8

- Closing Plenary Session (Summary of Subgroups 2 and 3, Summary of Discussion on Subgroup 4, Assign Tasks, Other Business, Date and Place of Next Meetings, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Issued in Washington, DC, on May 15, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12724 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held June 12, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

June 12

Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)

Publication Consideration/Approval

- Final Draft, Change 2 to DO–160D, *Environmental Conditions and Test Procedures for Airborne Equipment,* RTCA Paper No. 135–01/PMC–144, prepared by SC–135.
- Final Draft, DO–181C, *Minimum Operational Performance Standards for Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/Mode S) Airborne Equipment,* RTCA Paper No. 150–01/PMC–148, prepared by SC–187.
- Final Draft, DO–218B, *Minimum Operational Performance Standards for the Mode S Airborne Data Link Processor,* RTCA Paper No. 151–01/PMC–149, prepared by SC–187
- Final Draft, Change 3 to DO–204, *Minimum Operational Performance Standards 406 MHz Emergency Locator Transmitters (ELT),* RTCA Paper No. 132–01/PMC–143, prepared by SC–160.
- Final Draft, *Concepts For Services Integrating Flight Operations And Air Traffic Management Using Addressed Data Link,* RTCA Paper No. 147–01/PMC–146, prepared by SC–194.

Discussion

- New Special Committee, Airport Security Access Control
  - —Discuss results of earlier PMC action to establish this new committee
  - —Public comment
- Special Committee 195, Flight Information Services Communications
  - Consideration of Terms of Reference Update, Proposed Revision 3
  - Special Committee 181, Navigation Standards
  - Consideration of nominated new Special Committee, Dave Nakamura, Boeing
- Special Committee 190, Application Guidelines for DO–178B
  - —Chairman's Presentation
  - —Committee activity update and introduction of SC–190's document, *Guidelines for CNS/ATM Systems Software Integrity Assurance*
  - Special Committee 172, VHF Air-Ground Communication
  - Chairman's Report
  - Two issues: (1) Retention of Working Group papers; (2) Document Update Process

Action Item Review

- Action Item 01–01, Report on RTCA National Airspace Redesign activity
- Action Item 02–01, Member's comment on need for a Multi Function Display Special Committee

Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Dated: Issued in Washington, DC, on May 15, 2001.

James L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–12725 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9688]

Notice of Request To Renew the Approval of an Information Collection: OMB No. 2126–0001 (Driver's Record of Duty Status)

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

ACTION: Notice and request for comments.

SUMMARY: This notice announces that the FMCSA intends to request the Office of Management and Budget (OMB) to renew approval for the information collection described below. This information collection is necessary to ensure that motor carriers and commercial motor vehicle (CMV) drives comply with the maximum driving and duty time limitations prescribed in the Federal Motor Carrier Safety Regulations (FMCSR). This notice is required by the Paperwork Reduction Act.

DATES: Please submit comments by July 20, 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*. Be sure to include the docket number appearing in the heading of this document on your comment. 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. If you would like to be notified when your comments is received, you must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Ms. Angeli Sebastian, (202) 366–4001, Chief of Driver and Carrier Operations (MC–PSD), Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Driver's Record of Duty Status.

OMB Approval Number: 2126–0001.

Background: The paper record of duty status (RODS) and automatic on-board recording device are the primary regulatory tools used by the FMCSA to determine motor carriers' and CMV drivers' compliance with the maximum driving and duty time limitations prescribed in the FMCSRs. These tools are also used by States that receive FMCSA Motor Carrier Safety Assistance Program (MCSAP) grants to determine regulatory compliance of CMV drivers during the safety inspections they perform. The information contained in the RODS determines whether a driver can drive a CMV on any given day based upon the driver's duty hours recorded over the previous 7 to 8 days. The RODS is an important tool to aid the FMCSA to help ensure the safety of the general public by reducing the number of tired drivers on the nation's highways.

Respondents: Motor carriers and approximately 6.4 million CMV interstate drivers subject to FMCRSs or compatible State regulations.

Frequency: Daily.

Estimated Total Annual Burden: 42,464,327 hours.

Public Comments Invited

We invite you to comment on any aspect of this information collection, including, but not limited to (1) whether the collection of information is necessary for the FMCSA to meet its goal of reducing truck crashes, including whether the information is useful to this goal; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, usefulness and clarity of the information collected; and (4) ways to minimize the collection burden without reducing the quality of the information collected.

Electronic Access and Filing

You may submit or retrieve comments online through the Docket Management System (DMS) at *http://dmses.dot.gov/submit*. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site. You may also download an electronic copy of this document from the DOT Docket Management System on the Internet at *http://dms.dot.gov/search.htm*. Please include the docket number appearing in the heading of this document.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Issued on: May 15, 2001.

Brian M. McLaughlin,

Acting Deputy Administrator.

[FR Doc. 01–12619 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–01–9332]

Exemption Application From the Brotherhood of Railroad Signalmen and CSX Transportation, Inc.

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The FMCSA has received a joint application from the Brotherhood of Railroad Signalmen (BRS) and CSX Transportation, Inc. (CSX) for an exemption from the hours-of-service rules for drivers of commercial motor vehicles engaged in interstate commerce. Petitioners request an exemption from the 60-hour in 7-day and 70-hour in 8-day rules for CSX's signal construction gangs, comprised of BRS members. The FMCSA seeks public comment on the merits of the application and whether the FMCSA should grant or deny it.

DATES: Comments must be received on or before June 20, 2001.

ADDRESSES: You can 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.* You should include the docket number that appears in the heading of this document. You can examine and copy all comments at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. You may also view comments on the Internet at *http://dms.dot.gov* using the docket number that appears in the heading of this document. If you want us to notify you that we received your comments, please include a self-addressed, stamped postcard, or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. David Miller, (202) 366–6408.

SUPPLEMENTARY INFORMATION:

Background

BRS and CSX's Application

The CSX is a private motor carrier of property as defined by 49 CFR part 390 and a Class I railroad as defined by 49 CFR part 1201. The BRS and CSX filed a joint application that asks the FMCSA for either one of two actions. The petitioners' first (and preferred) request is for an interpretation that the hours-of-service (HOS) regulations (49 CFR Part 395) do not apply to CSX railroad signal employees driving commercial motor vehicles (CMVs) on public roads in interstate commerce. The alternative request is for an exemption from the HOS rules that would allow CSX railroad signal employees to work their collectively-bargained schedule, i.e., 8 consecutive days on duty at up to 12 hours per day, followed by 6 consecutive days off duty. A copy of the joint application for exemption is in the docket.

The FMCSA disagrees with petitioners' argument that the HOS regulations ''are not intended to, and do not, apply to railroad signal employees who are subject to HOS requirements promulgated by Congress specifically for application to railroad signal employees.'' The 1976 amendment to the Hours of Service Act of 1907 dealing with railroad signal employees (49 U.S.C. 21104) was intended to protect them from being required to work excessive hours. Nothing in Sec. 21104 suggests that Congress intended it to supersede the HOS regulations applicable to highway operations of CMVs, which were based on the Motor Carrier Act of 1935 (49 U.S.C. 31502). The language and legislative history of section 21104 reveal no specific intent to protect the public from potential risks associated with the operation of CMVs by railroad signal personnel who are on-duty for many hours. The FMCSA's HOS regulations, on the other hand, are designed to protect all users of the public highways from fatigued CMV drivers (49 CFR Part 395). Petitioners' argument is not supported by any authority.

Exemption Request

The agency will, however, consider petitioners' request for an exemption from Part 395 to the extent needed to allow railroad signal employees to work their collectively-bargained schedule, i.e., 8 consecutive days on duty at up to 12 hours per day, followed by 6 consecutive days off duty.

According to the joint application, CSX employs about 1,765 signalmen who are represented by the BRS. It is unclear exactly how many of these employees would be affected by the exemption requested.

The petition states that CSX signal employees are organized into 91 construction gangs. They drive private vehicles from their homes to a hotel or motel close to their next job site. From there, CSX transports signal employees to the job site in company vehicles driven by other members of the crew. These drivers typically spend two to three hours per day driving, and the rest of their time working on railroad signal equipment. They also move their vehicles between job sites, which usually takes less than four hours.

Petitioners reported that ''[d]uring 1999, members of CSX's signal construction gangs operated approximately 133 vehicles prior to June 1 and approximately 177 vehicles after June 1, at an average annual rate of 200 days per vehicle or more than 30,000 vehicle days. During that period of time there were no fatalities related to operation of CMVs by members of signal construction gangs. There were no instances of personal injury and only 24 instances of property damage related to operation of CMVs by members of signal construction gangs. Eleven of those instances involved CSX vehicles being struck by outside parties. Others involved such things as collisions with deer. Thus, there is minimal risk in authorizing a modest increase in the work week for this small group of CSX drivers. Any such risk that may exist is more than offset by a very substantial off-duty period between each work week.''

The BRS and CSX offered additional arguments in support of an exemption. The entire application is available in the docket.

On December 15, 2000, the Association of American Railroads (AAR) filed with the FMCSA a ''petition * * * in support of the joint petition filed September 12, 2000, by the Brotherhood of Railroad Signalmen and CSX Transportation, Inc.'' Since the AAR document is not a separate request for exemption, but rather a body of arguments and data in support of the previous petition, the FMCSA will treat it as a comment. It is also available in the docket.

Exemption Procedure

Drivers for motor carriers that do not operate every day of the week are prohibited from driving after being on duty 60 hours in any 7-day period (§ 395.3(b)(1)). Drivers for motor carriers that operate every day of the week may not drive after being on duty 70 hours in any 8-day period (§ 395.3(b)(2)). The BRS and CSX are applying for a 2-year

exemption from both of these requirements under 49 CFR Part 381, subpart C (§§ 381.300 through 381.330).

Section 381.310 (c) and (d) require applicants to submit a written statement that:

1. Describes the reason the exemption is needed, including the time period during which it is needed;

2. Identifies the regulation from which the applicant would like to be exempted;

3. Provides an estimate of the total number of drivers and CMVs that would be operated under the terms and conditions of the exemption;

4. Assesses the safety impacts the exemption may have;

5. Explains how the applicant would ensure that it could achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation; and

6. Describes the impacts (e.g., inability to test innovative safety management control systems, etc.) the applicant could experience if the exemption is not granted by the FMCSA.

7. The application must include a copy of all research reports, technical papers, and other publications and documents the applicant references.

An exemption is limited to two years from its approval date, but it may be renewed upon application to the FMCSA. This document and the material in the docket constitute all of the relevant information known to the agency.

Request for Comments

In accordance with 49 CFR Part 381, the FMCSA is requesting public comment on the exemption application from the BRS and CSX.

We will consider all comments received before the close of business on the comment closing date of this notice. We will file in the public docket comments received after the comment closing date and will consider them to the extent practicable, but the FMCSA may grant or deny the BRS and CSX exemption at any time after the close of the comment period.

Authority: 49 U.S.C. 31136 and 31315; and 49 CFR 1.73.

Issued on: May 14, 2001.

Brian M. McLaughlin,

Acting Deputy Administrator.

[FR Doc. 01–12618 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcing the Fifth Quarterly Meeting of the Crash Injury Research and Engineering Network

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the Fifth Quarterly Meeting of members of the Crash Injury Research and Engineering Network. CIREN is a collaborative effort to conduct research on crashes and injuries at nine Level 1 Trauma Centers which are linked by a computer network. Researchers can review data and share expertise, which could lead to a better understanding of crash injury mechanisms and the design of safer vehicles.

DATES: The meeting is scheduled from 9 a.m. to 5 p.m. on June 21, 2001.

ADDRESSES: The meeting will be held in Room 6200–04 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: The CIREN System has been established and crash cases have been entered into the database by each Center. CIREN cases may be viewed from the NHTSA/CIREN web site at: http://www-nrd.nhtsa.dot.gov/include/bio_and_trauma/ciren-final.htm. NHTSA has held three Annual Conferences where CIREN research results were presented. Further information about the three previous CIREN conferences is also available through the NHTSA website. NHTSA held the first quarterly meeting on May 5, 2000, with a topic of lower extremity injuries in motor vehicle crashes, the second quarterly meeting on July 21, 2000, with a topic of side impact crashes, the third quarterly meeting on November 30, 2000, with a topic of thoracic injuries in crashes and the fourth quarterly meeting on March 16, 2001, with a topic of offset frontal collisions. Information from the May 5, July 21, and November 30, 2000, meetings and the March 16, 2001 meeting are also available through the NHTSA website.

NHTSA plans to continue holding quarterly meetings on a regular basis to disseminate CIREN information to interested parties. This is the fifth such meeting. The topic for this meeting is CIREN Outreach Efforts. Subsequent meetings have tentatively been scheduled for September and December 2001. These quarterly meetings will be in lieu of an annual CIREN conference.

FOR FURTHER INFORMATION CONTACT: Mrs. Donna Stemski, Office of Human-Centered Research, 400 Seventh Street, SW., Room 6206, Washington, DC 20590, telephone: (202) 366–5662.

Issued on: May 14, 2001.

Raymond P. Owings,

Associate Administrator for Research and Development, National Highway Traffic Safety Administration.

[FR Doc. 01–12617 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Docket No. NHTSA–2001–9562

Notice of Receipt of Petition for Decision That Nonconforming 1992 Chevrolet Corvette Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 1992 Chevrolet Corvette passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1992 Chevrolet Corvette passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''WETL'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1992 Chevrolet Corvette passenger cars are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are 1992 Chevrolet Corvette passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1992 Chevrolet Corvette passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 1992 Chevrolet Corvette passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1992 Chevrolet Corvette passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence.* * *, 103 Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 108 *Lamps, Reflective Devices and Associated Equipment,* 109 *New Pneumatic Tires,* 111 *Rearview Mirror,* 113 *Hood Latch Systems,* 114 *Theft Protection,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 208 *Occupant Crash Protection,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 1992 Chevrolet Corvette passenger cars comply with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the non-U.S. certified 1992 Chevrolet Corvette passenger cars are not identical to their U.S. certified counterparts, as specified below, but still comply with the following Standard in the manner indicated:

Standard No. 101 *Controls and Displays:* The speedometer is digital and indicates both kilometers per hour and mile per hour.

Petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR part 565. Also, a certification label must be affixed to the driver's side door jamb to meet the requirements of 49 CFR part 567.

Additionally, the petitioner states that all vehicles will be inspected prior to importation to ensure that they are equipped with U.S.-model anti-theft devices, and that all vehicle that are not so equipped will be modified to comply with the Theft Prevention Standard at 49 CFR part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.). It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 15, 2001.

Marilynne Jacobs,

Director Office of Vehicle Safety, Compliance

[FR Doc. 01–12727 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9628]

Notice of Receipt of Petition for Decision that Nonconforming 2001 Ferrari 360 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2001 Ferrari 360 Passenger Cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2001 Ferrari 360 Passenger Cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number,

and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 2001 Ferrari 360 Passenger Cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 2001 Ferrari 360 Passenger Cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2001 Ferrari 360 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2001 Ferrari 360 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2001 Ferrari 360 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*, as well as 49 CFR part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of the word ABrake'' for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.-model headlamps and front sidemarker lamps and (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: Installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems*: Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection*: (a) Installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 15, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12728 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7523; Notice 2]

Decision That Nonconforming 1997 Chevrolet Blazer Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1997 Chevrolet Blazer multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1997 Chevrolet Blazer MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1997 Chevrolet Blazer), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''WETL'') (Registered Importer 90–005) petitioned NHTSA to decide whether 1997 Chevrolet Blazer MPVs are eligible for importation into the United States. NHTSA published notice of the petition on July 13, 2000 (65 FR 44851) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice of the petition, from General Motors Corporation (''GM''), the manufacturer of the 1997 Chevrolet Blazer. In this comment, GM stated that during the 1997 model year, GM and its subsidiaries and affiliates assembled Chevrolet Blazers at several locations around the world. Those intended for sale in the United States, Canada, and some other world markets, were produced at two assembly plants located within the United States, at Linden, New Jersey (identified by plant code ''K'' in the 11th position of the vehicle identification number or ''VIN'' assigned to the vehicle) and at Moraine, Ohio, (identified by plant code ''2'' in the 11th position of the VIN).

GM stated that production of 1997 Chevrolet Blazers also occurred at a number of plants outside of the United States. GM stated that in order to satisfy unique market conditions and local regulations, vehicles produced at these foreign plants differed from those produced domestically in a number of respects, including the interior trim, chassis, and powertrain components with which they were built. Owing to the design and part differences between the 1997 Chevrolet Blazers produced domestically, and those produced overseas for foreign markets, GM stated that there is no assurance that the vehicles produced overseas would comply with all applicable Federal motor vehicle safety standards. GM noted that it does not typically perform tests or evaluations to determine the compliance of foreign market vehicles with the Federal standards because the vehicles were never intended for sale or use in the U.S. market. GM further observed that Blazers built overseas for foreign markets may contain locally sourced parts that are not subject to the same manufacturing, warranty, and approval process used within GM's North American operations and that these foreign sourced parts may have an impact on the vehicles' conformity with the Federal motor vehicle safety standards.

In light of these considerations, GM expressed the opinion that only the U.S. manufactured versions of the subject vehicles (those with plant codes ''K'' or ''2'' in the 11th position of their VINs) should be considered substantially similar to vehicles originally manufactured for sale in the U.S. and capable of being modified to comply with the Federal motor vehicle safety standards. GM contended that ''subject vehicles manufactured at all other locations should not be considered substantially similar to vehicles originally manufactured for sale in the U.S. and, thus, not eligible for importation.''

NHTSA accorded WETL an opportunity to respond to GM's comments. WETL stated that the 1997 Chevrolet Blazers that are the subject of its petition are U.S. manufactured vehicles with plant codes ''K'' or ''2'' in the 11th position of their VINs. WETL therefore did not challenge GM's contention that vehicles with plant codes other than these should not be considered substantially similar to U.S.-certified models and therefore eligible for importation. In view of GM's comments and WETL's response, NHTSA has decided to grant import eligibility only to 1997 Chevrolet Blazers with the plant code ''K'' or ''2'' in the eleventh character of their VINs.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–349 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1997 Chevrolet Blazer MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards, but that have been assigned vehicle identification numbers in which the letter ''K'' or the number ''2'' is the eleventh character, are substantially similar to 1997 Chevrolet Blazer MPVs originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Marilynne Jacobs,

Director, Office of Vehicle Safety, Compliance.

[FR Doc. 01–12729 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9560]

Notice of Receipt of Petition for Decision That Nonconforming 2000–2001 Audi TT Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2000–2001 Audi TT Passenger Cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2000–2001 Audi TT Passenger Cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 2000–2001 Audi TT Passenger Cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 2000–2001 Audi TT Passenger Cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2000–2001 Audi TT passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2000–2001 Audi TT passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2000–2001 Audi TT passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence . * * *,* 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of the word ''Brake'' for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.-model headlamps and front sidemarker lamps; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps; (c) installation of a high mounted stop lamp on vehicles that are not already so equipped.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection*: Installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems*: Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection*: (a) Installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S-model components on vehicles that are not already so equipped. The petitioner states that the vehicles are equipped at the front and rear outboard designated seating positions with combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

Standard No. 214 *Side Impact Protection*: Inspection of all vehicles and installation of reinforcing door beams on vehicles that are not already so equipped.

Petitioner states that the bumpers and bumper support structure on all vehicles must be inspected for compliance with the Bumper Standard found at 49 CFR part 581, and replaced,

if necessary, to assure compliance with that standard.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

The agency notes that Audi TT is manufactured in both coupe and convertible models.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12730 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9649]

Notice of Receipt of Petition for Decision That Nonconforming 1995–2000 KTM Duke II Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995–2000 KTM Duke II motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1995–2000 KTM Duke II motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm.)

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Northern California Diagnostic Laboratories, Inc. of Napa, California (NCDL'') (Registered Importer 92–011) has petitioned NHTSA to decide whether non-U.S. certified 1995–2000 KTM Duke II motorcycles are eligible for importation into the United States.

The vehicles which NCDL believes are substantially similar are 1995–2000 KTM Duke II motorcycles that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1995–2000 KTM Duke II motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

NCDL submitted information with its petition intended to demonstrate that non-U.S. certified 1995–2000 KTM Duke II motorcycles, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1995–2000 KTM Duke II motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 111 *Rearview Mirrors,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars, and 122 Motorcycle Brake Systems.*

The petitioner also states that vehicle identification number plates that meet the requirements of 49 CFR part 565 are already affixed to non-U.S. certified 1995–2000 KTM Duke II motorcycles.

Petitioner additionally contends that the vehicles are capable of being readily altered to meet the following standard, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of a red reflector on each side of vehicle at its rear end; (b) installation of an amber reflector on each side of the vehicle at its front end. The petitioner states that the vehicle is equipped with a headlamp system, a tail lamp system, a stop lamp system, a white license plate lamp, a red rear reflector, and turn signals that are in conformity with the standard.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* Installation of a tire information label.

Standard No. 123 *Motorcycle Controls and Displays:* Modification of the speedometer to conform to the standard. The petitioner states that all other controls and displays on the vehicle, including the supplemental engine stop control, conform to the standard.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC

20590. It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12731 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9630]

Notice of Receipt of Petition for Decision That Nonconforming 2001 Ferrari 550 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2001 Ferrari 550 passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2001 Ferrari 550 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm).

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 2001 Ferrari 550 passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 2001 Ferrari 550 passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2001 Ferrari 550 passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2001 Ferrari 550 passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2001 Ferrari 550 passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials,* as well as 49 CFR part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of the word ''Brake'' for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lamps and (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 118 *Power Window Systems:* Installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off on vehicles that are not already so equipped.

Standard No. 208 *Occupant Crash Protection:*

(a) Installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The front outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12732 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9631]

Notice of Receipt of Petition for Decision That Nonconforming 1999–2001 BMW 7 Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1999–2001 BMW 7 Series passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1999–2001 BMW 7 Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 20, 2001.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1999–2001 BMW 7 Series passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1999–2001 BMW 7 Series passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1999–2001 BMW 7 Series passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1999–2001 BMW 7 Series passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1999–2001 BMW 7 Series passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials,* as well as 49 CFR part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of the word ''Brake'' for the international ECE warning symbol on the markings for the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The petitioner states that the entire instrument cluster will be replaced with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lamps and (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lamps.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. The front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton.

The petitioner also states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 am to 5 pm). It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2001.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 01–12733 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety: Emergency Plans and Procedures for Responding to Multiple Gas Leaks and Migration of Gas Into Buildings

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; issuance of an advisory bulletin.

SUMMARY: The Office of Pipeline Safety (OPS) is issuing this advisory to owners and operators of gas pipeline distribution systems. Owners and operators should review their emergency plans and procedures to determine whether the procedures prompt the appropriate actions for gas leaks caused by excavation damage near buildings, and whether the procedures adequately address the possibility of multiple leaks and the underground migration of gas into nearby buildings.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, (202) 366–6205, or by e-mail, *marvin.fell@rspa.dot.gov.* This document can be viewed at the OPS home page at *http://ops.dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 22, 1999, while excavating a trench behind a building in the downtown area of Bridgeport, Alabama, a backhoe operator damaged a natural gas service line. This resulted in two leaks on the natural gas service line, which was operating at a pressure of 35 pounds per square inch (psig). One leak occurred where the backhoe bucket contacted the gas service line and pulled it aboveground. Although the second leak was not visible, the ensuing investigation revealed that the natural gas service line was separated at an underground joint near the gas meter, and close to a building. As a result, natural gas migrated into the building. The gas ignited, destroying three downtown buildings in a two square block area. The incident resulted in four fatalities and five injuries.

The National Transportation Safety Board (NTSB) investigated this incident and determined that the probable cause of the accident was (1) the failure of the construction contractor to establish and follow safe procedures for excavation activities, resulting in damage to the ¾-inch steel natural gas service line and (2) the failure of the operator to provide appropriate emergency response to the subsequent natural gas leak.

The operator's written emergency procedures in effect at the time of the accident instructed service personnel to ''* * * evaluate the extent of the emergency, request assistance as needed, and to inform the manager if necessary.'' However, the procedures did not instruct employees responding to a reported leak to consider the possibility of multiple leaks, check for gas accumulation in nearby buildings, and, if necessary, take steps to promptly stop the flow of gas.

II. Advisory Bulletin (ADB–01–02)

To: Owners and Operators of Gas Distribution Systems.

Subject: Emergency Plans and Procedures for Responding to Multiple Gas Leaks and Migration of Gas into Buildings

Purpose: To advise owners and operators of gas distribution pipeline systems to review their emergency plans and procedures to determine whether the procedures prompt the appropriate actions for gas leaks caused by excavation damage near buildings, and whether the procedures adequately address the possibility of multiple leaks and the underground migration of gas into nearby buildings.

Advisory: Owners and operators of gas distribution systems should ensure that their emergency plans and procedures require employees who respond to gas leaks to consider the possibility of multiple leaks, to check for gas accumulation in nearby buildings, and, if necessary, to take steps to promptly stop the flow of gas. These procedures should be communicated to both employee and contractor personnel who are responsible for emergency response to pipeline incidents.

Issued in Washington, DC on May 16, 2001.

Jeffrey D. Wiese,

Manager, Program Development, Office of Pipeline Safety.

[FR Doc. 01–12717 Filed 5–18–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 15, 2001.

The Department of 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 June 20, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0773.

Regulation Project Number: TD 8172 Final.

Type of Review: Extension.

Title: Qualification of Trustee or Like Fiduciary in Bankruptcy.

Description: Internal Revenue Code (IRC) section 6036 requires executors or receivers to advise the district director of their appointment or authorization to act. This information is necessary so that IRS will know of the proceedings and who to contact for delinquent returns or taxes.

Respondents: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Other (nonrecurring).

Estimated Total Reporting Burden: 12,500 hours.

OMB Number: 1545–0874.

Form Number: IRS Form 8328.

Type of Review: Extension.

Title: Carryforward Election of Unused Private Activity Bond Volume Cap.

Description: Section 146(f) of the Internal Revenue Code requires that issuing authorities of certain types of tax-exempt bonds must notify the IRS if they intend to carry forward the unused limitation for specific projects. The IRS uses the information to complete the required study of tax-exempt bonds (required by Congress).

Respondents: Business or other for-profit, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 10,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	6 hr., 27 min.
Learning about the law or the form.	2 hr., 10 min.
Preparing and sending the form to the IRS.	2 hr., 22 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 110,300 hours.

OMB Number: 1545–1068.

Regulation Project Number: INTL–362–88 Final.

Type of Review: Extension.

Title: Definition of a Controlled Foreign Corporation, Foreign Base Company Income, and Foreign Personal Holding Company Income of a Controlled Foreign Corporation.

Description: The election and recordkeeping requirements are necessary to exclude certain high-taxed or active business income from subpart F income or to include certain income in the appropriate category of subpart F income. The recordkeeping and election procedures allow the U.S. shareholders and the IRS to know the amount of the controlled foreign corporation's subpart F income.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 50,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: Other (one-time currency election).

Estimated Total Reporting/ Recordkeeping Burden: 50,417 hours.

OMB Number: 1545–1165.

Form Number: IRS Form 8821.

Type of Review: Extension.

Title: Tax Information Authorization.

Description: Form 8821 is used to appoint someone to receive or inspect certain tax information. Data is used to identify appointees and to ensure that confidential information is not divulged to unauthorized persons.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms.

Estimated Number of Respondents/ Recordkeepers: 200,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—6 min.

Learning about the law or the form—12 min.

Preparing the form—24 min.

Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 210,000 hours.

OMB Number: 1545–1243.

Regulation Project Number: PS–163–84 Final.

Type of Review: Extension.

Title: Treatment of Transactions Between Partners and Partnerships.

Description: Section 707(a)(2) provides that if there are transfers of money or property between a partner and a partnership, the transfer will be treated, in certain situations, as a disguised sale between the partner and the partnership. The regulations provide that the partner or the partnership should disclose the transfers and certain attendant facts in some situations.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 7,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 20 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 2,500 hours.

OMB Number: 1545–1255.

Regulation Project Number: INTL–870–89 NPRM.

Type of Review: Extension.

Title: Earnings Stripping (Section 163(j)).

Description: Certain taxpayers are allowed to write off the fixed basis of the stock of an acquired corporation rather than the adjusted basis of the assets acquired corporation to elect special treatment under section 163(j).

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 2,300.

Estimated Burden Hours Per Respondent/Recordkeeper: 31 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 1,196 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

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. 01–12734 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 15, 2001.

The Department of 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 June 20, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1270.

Regulation Project Number: PS–66–93 and PS–120–90 Final.

Type of Review: Extension.

Title: Gasohol; Compressed Natural Gas (PS–66–93); and Gasoline Excise Tax (PS–120–90).

Description: PS–66–93: Buyers of compressed natural gas for a non taxable use must give a certificate. Persons who pay a ''first tax'' on gasoline must file a report.

PS–120–90: Gasoline refiners, traders, terminal operators, chemical companies a notify each other of their registration status and/or use of product before transactions may be made tax-free.

Respondents: Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents: 3,170.

Estimated Burden Hours Per Respondents: 7 minutes.

Frequency of Response: On occasion, Annually.

Estimated Total Reporting Burden: 371 hours.

OMB Number: 1545–1331.

Regulation Project Number: PS–55–89 Final.

Type of Review: Extension.

Title: General Asset Accounts Under the Accelerated Cost Recovery System.

Description: The regulations describe the time and manner of making the election described in Internal Revenue Code (IRC) section 168(i)(4). Basic information regarding this election is necessary to monitor compliance with the rules in IRC section 168.

Respondents: Business or other for-profit, Farms.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondents: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 250 hours.

OMB Number: 1545–1338.

Regulation Project Number: PS–103–90 Final.

Type of Review: Extension.

Title: Election Out of Subchapter K for Producers of Natural Gas.

Description: Under section 1.761–2(d)(5)(i), gas producers subject to gas balancing agreements on the regulation's effective date are to file Form 3115 and certain additional information to obtain the Commissioner's consent to a change in method of accounting to either of the two new permissible accounting methods in the regulations.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 10.

Estimated Burden Hours Per Respondents: 30 minutes.

Frequency of Response: Other (one time only).

Estimated Total Reporting Burden: 5 hours.

OMB Number: 1545–1413.

Regulation Project Number: IA–30–95 Final.

Type of Review: Extension.

Title: Reporting of Nonpayroll Withheld Tax Liabilities.

Description: These regulations concern the Secretary's authority to require a return of tax under section 6011 and provide for the requirement of a return by persons deducting and withholding income tax from ''Nonpayroll'' payments.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondents: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1433.

Regulation Project Number: CO–11–91 Final and CO–24–95 Final.

Type of Review: Extension.

Title: Consolidated Groups and Controlled Groups-Intercompany Transactions and Related Rules (CO–11–91); and Consolidated Groups-Intercompany Transactions and Related Rules (CO–24–95).

Description: The regulations require common parents that make elections under Section 1.1502–13 to provide certain information. The information will be used to identify and assure that the amount, location, timing and attributes of intercompany transactions and corresponding items are properly maintained.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 2,200.

Estimated Burden Hours Per Respondent/Recordkeeper: 29 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,050 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–12735 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–41]

Amendments to U.S. Customs Mitigation Guidelines Pertaining to Claims Arising From Foreign Trade Zone Violations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document revises the ''Guidelines for Cancellation for Liquidated Damages'' which were published in the **Federal Register** as Treasury Decision 94–38 on April 14, 1994. This document revises the Section IX portion of those Guidelines which concerns claims arising from violations of foreign trade zone regulations. New provisions are added to that section of the Guidelines allowing for cancellation of claims arising from violations of foreign trade zone regulations, under certain conditions and limitations, in instances in which the violator voluntarily informs Customs of a violation prior to Customs discovery of the existence of that violation.

EFFECTIVE DATE: These guidelines will take effect upon May 21, 2001, and shall be applicable to all cases which are currently open at the petition or supplemental petition stage.

FOR FURTHER INFORMATION CONTACT: Steven Bratcher, Penalties Branch, Office of Regulations and Rulings, 202–927–2328.

SUPPLEMENTARY INFORMATION:

Background

''Guidelines for Cancellation of Claims for Liquidated Damages'' were published in the **Federal Register** (59 FR 17830) on April 14, 1994, as Treasury Decision 94–38. Section IX of these guidelines is entitled ''Guidelines

for Cancellation of Claims Arising from Violations of Foreign Trade Zone Regulations (19 CFR part 146, 19 CFR 113.73).'' In this document Customs is revising the Section IX portion of the ''Guidelines for Cancellation of Claims for Liquidated Damages.'' The revision involves the addition of provisions which allow for the cancellation of claims arising from the violation of foreign trade zone regulations, under certain conditions and limitations, in instances in which the violator voluntarily informs Customs of a violation prior to Customs discovery of the existence of that same violation. Foreign trade zone regulations are found in part 146, Customs Regulations (19 CFR 146) and in 19 CFR 113.73.

This change to the Customs guidelines with respect to violation of foreign trade zones regulations has been requested by members of the trade on the basis that these provisions will encourage self-policing of zone operations. Members of the trade have brought to Customs attention that Treasury Decision 99–29 (published in the **Federal Register** on March 26, 1999), which sets forth guidelines for the cancellation of claims for liquidated damages and mitigation of penalties for various violations that are non-foreign trade zone related, includes language which allows for cancellation of claims in instances in which the violator voluntarily informs Customs of a violation prior to Customs discovery of the violation.

As Customs has adopted a clear policy of encouraging self-policing by importers and promoting importers' voluntary compliance with Customs rules and regulations, Customs believes, in the interest of fairness, companies operating in foreign trade zones should obtain the same benefit for voluntary compliance as do non-foreign trade zone entities. Therefore, the guidelines for cancellation of claims arising from foreign trade zone regulations is revised to allow for cancellation of claims when the violator voluntarily informs Customs of a violation prior to Customs discovery of the violation. Two new provisions are added to the end of section C of the Guidelines and one new provision is added to the end of section D of the Guidelines.

The text of Section IX of the ''Guidelines for Cancellation of Claims for Liquidated Damages,'' which was published in the **Federal Register** (59 FR 17830) on April 14, 1994, is revised as republished below.

Dated: May 15, 2001.

Charles W. Winwood,

Acting Commissioner of Customs.

IX. Guidelines for Cancellation of Claims Arising From Violations of Foreign Trade Zone Regulations (19 CFR Part 146, 19 CFR 113.73)

A. *Defaults involving merchandise.* Defaults involving merchandise include those violations relating to merchandise which:

1. Cannot be located or accounted for in the activated area of a foreign trade zone.

2. Has been removed from the activated area of the zone without a proper Customs permit; or

3. Has been admitted, manipulated, manufactured, exhibited or destroyed in the activated area of a zone:

a. Without a proper Customs permit; or

b. Not in accordance with the description of the activity in the Customs permit.

B. *Defaults not involving merchandise.* Defaults not involving merchandise means any instance of failure, other than one involving merchandise or late payment of the annual fee, to comply with the laws or regulations governing foreign trade zones. A default involving one zone lot or unique identifier may not be combined with a default under another lot or unique identifier.

C. *Defaults involving merchandise; petitions.* Claims arising from defaults involving merchandise should be processed in accordance with the following:

1. If the breach resulted from clerical error or mistake (a non-negligent inadvertent error), the claim should be cancelled without payment.

2. If the breach resulted from negligence, but no threat to the revenue occurred (*e.g.,* the merchandise was not manipulated in accordance with the permit to manipulate) the claim should be cancelled upon payment of an amount between one and 15 percent of the value of the merchandise involved in the breach, but not less than $100 nor more than $10,000. If the merchandise involved in the breach is restricted merchandise, that shall be considered an aggravating factor which shall result in mitigation on the higher end of the range. If the merchandise involved in the breach is domestic status merchandise, that shall be considered a mitigating factor which shall result in mitigation on the lower end of the range.

3. If the breach resulted from negligence and a potential loss of revenue resulted (*e.g.,* merchandise cannot be located in the zone, merchandise is removed from the zone without a permit), the claim shall be cancelled upon payment of an amount between one and three times the loss of revenue (loss of revenue to include duties, fees and taxes). If the merchandise involved in the breach is restricted merchandise, the claim shall be cancelled upon payment of an amount between three and five times the loss of revenue but in no case less than 10 percent of the value of such merchandise.

4. If the breach is intentional (*e.g.,* the foreign trade zone operator conspired to remove merchandise from the warehouse zone without proper entry being made), there will be no relief granted from liquidated damages.

5. Aggravating factors.

a. Principal's failure or refusal to cooperate with Customs.

b. Large number of violations compared to number of transactions handled.

c. Experience of principal.

d. Principal's carelessness or willful disregard toward its responsibilities.

6. Mitigating factors.

a. Contributory error by Customs.

b. Small number of violations compared to number of transactions handled.

c. Remedial action taken by principal.

d. Cooperation with Customs.

e. Lack of experience of principal.

f. Merchandise which cannot be located or which has been removed without permit is returned to Custom custody.

g. The merchandise involved in the breach is domestic status merchandise.

7. If the violator comes forward and informs Customs of a violation, prior to Customs discovery of the violation, the claim for liquidated damages may be cancelled, at the discretion of the appropriate Customs officer, upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made, plus $50.

8. If the violator comes forward and informs Customs of a violation, prior to Customs discovery of the violation, and the violation involves restricted merchandise, then the claim for liquidated damages may be cancelled, at the discretion of the appropriate Customs officer, upon payment of an amount equal to the duties, fees, taxes and charges that would have been due on the merchandise had entry been properly made, plus 5 percent of the value of the merchandise, but not less than $500. The kind and character of the restriction will be considered before relief under this provision is allowed.

D. *Defaults not involving merchandise; modified CF 5955A.* Defaults not involving merchandise shall be processed in accordance with the following guidelines.

1. *Modified CF 5955A.* Notices of liquidated damages incurred may be issued on a modified CF 5955A. The modified form shall specify two options from which the petitioner may chose to resolve the demand.

a. *Option 1.* He may pay a specified sum within 60 days, and the case will be closed. By electing this option in lieu of petitioning, he waives his right to file a petition. He may, however, file a supplemental petition, if he does so in accordance with the Customs Regulations and has some new fact or information which merits consideration in accordance with these guidelines.

b. *Option 2.* Petition for relief. The bond principal or surety may file a petition for relief. By filing a petition for relief, the petitioner will no longer be afforded the Option 1 mitigation amount. The port director shall grant full relief when the petitioner demonstrates that the violation did not occur. If the petitioner fails to demonstrate that the violation did not occur, the port director may cancel the claim upon payment of an amount no less than $100 greater than the Option 1 amount.

2. *Maximum assessments.* In cases involving violations which do not involve merchandise which are assessed at $1,000 for each business day that the violation continues, a maximum of $10,000 shall be assessed for any one such continuing violation unless the port director can articulate a legitimate enforcement purpose for exceeding said limit. These claims shall be cancelled in conformance with the terms of these guidelines.

3. *Clerical error.* If the breach resulted from clerical error, the claim may be cancelled without payment.

4. *Negligence.* If the breach resulted from negligence, the claim may be cancelled upon payment of an amount between $100 and $250 per default actually assessed, depending on the presence of aggravating or mitigating factors. For example, if a document is filed 100 days late, Customs, by policy, will generally limit the assessment to $10,000. Mitigation will be based on the $10,000 actual assessment and not relate to the $100,000 potential assessment.

5. *Intentional breach.* If the breach was intentional, no relief shall be granted.

6. *Violator disclosing violation before Customs discovery.* If the violator comes forward and discloses the violation to Customs prior to Customs discovery of the violation, whether or not the violation is a continuing one, the claim for liquidated damages may be cancelled, at the discretion of the appropriate Customs officer, upon payment of the amount of $50.

E. *Cancellation of claims for late payment of the annual fee.*

1. If the late payment resulted from clerical error or mistake, the claim may be cancelled upon payment of the amount due but not paid.

2. If the late payment resulted from negligence, cancel the claim upon payment of the amount due but not paid plus the following percent of that amount for each day payment is in arrears:

a. First seven calendar days—not less than one-third of one percent nor more than three-fourths of one percent per day.

b. Second seven calendar days—not less than one and one-third percent nor more than one and three-fourths percent per day.

c. After the fourteenth calendar day—not less than two and one-third percent nor more than two and three-fourths percent per day.

3. If the late payment was intentional, no relief shall be granted.

[FR Doc. 01–12662 Filed 5–18–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–29–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–29–91 (TD 8556), Computation and Characterization of Income and Earnings and Profits Under the Dollar Approximate Separate Transactions Method of Accounting (DASTM) (§ 1.985–3).

DATES: Written comments should be received on or before July 20, 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 information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Computation and Characterization of Income and Earnings and Profits Under the Dollar Approximate Separate Transactions Method of Accounting (DASTM).

OMB Number: 1545–1051.

Regulation Project Number: INTL–29–91.

Abstract: This regulation provides that taxpayers operating in hyperinflationary currencies must use the United States dollar as their functional currency and compute income using the dollar approximate separate transactions method (DASTM). Small taxpayers may elect an alternate method by which to compute income or loss. For prior taxable years in which income was computed using the profit and loss method, taxpayers may elect to recompute their income using DASTM.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 700.

Estimated Time Per Respondent: 1 hour, 26 minutes.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a

matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 10, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12632 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4835

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 4835, Farm Rental Income and Expenses.

DATES: Written comments should be received on or before July 20, 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: Farm Rental Income and Expenses.

OMB Number: 1545–0187.

Form Number: 4835.

Abstract: Form 4835 is used by landowners (or sub-lessors) to report farm income based on crops or livestock produced by a tenant when the landowner (or sub-lessor) does not materially participate in the operation or management of the farm. The information on the form is used by the IRS to determine whether the proper amount of farm rental income received by the taxpayer has been reported.

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 and farms.

Estimated Number of Respondents: 407,719.

Estimated Time Per Respondent: 4 hrs., 24 min.

Estimated Total Annual Burden Hours: 1,793,964.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 11, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12633 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8829

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 8829, Expenses for Business Use of Your Home.

DATES: Written comments should be received on or before July 20, 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: Expenses for Business Use of Your Home.

OMB Number: 1545–1266.

Form Number: 8829.

Abstract: Internal Revenue Code section 280A limits the deduction for business use of a home to the gross income from the business use minus certain business deductions. Amounts not allowed due to the limitations can be carried over to the following year. Form 8829 is used to compute the allowable deduction and any carryover, and the IRS uses the information to verify that these amounts are properly computed.

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: 4,000,000.

Estimated Time Per Respondent: 2 hr., 36 min.

Estimated Total Annual Burden Hours: 10,400,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12738 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4868

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 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.

DATES: Written comments should be received on or before July 20, 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: Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.

OMB Number: 1545–0188.

Form Number: 4868.

Abstract: Form 4868 is used by taxpayers to apply for an automatic 4-month extension of time to file Form 1040, Form 1040A or Form 1040EZ. The form contains information used by the IRS to determine if a taxpayer qualifies for the extension.

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: 5,572,999.

Estimated Time Per Respondent: 1 hr., 8 min.

Estimated Total Annual Burden Hours: 6,353,219.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12739 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2441

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 2441, Child and Dependent Care Expenses.

DATES: Written comments should be received on or before July 20, 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: Child and Dependent Care Expenses.

OMB Number: 1545–0068.

Form Number: 2441.

Abstract: Internal revenue code section 21 allows a credit for certain child and dependent care expenses to be claimed on Form 1040 (reduced by employer-provided day care benefits excluded under Code section 129). Day care provider information must be reported to the IRS for both the credit and exclusion. Form 2441 is used to verify that the credit and exclusion are properly figured, and that day care provider information is reported.

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: 6,519,859.

Estimated Time Per Respondent: 2 hr., 18 min.

Estimated Total Annual Burden Hours: 15,517,265.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12740 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8812

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 8812, Additional Child Tax Credit.

DATES: Written comments should be received on or before July 2, 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: Additional Child Tax Credit.

OMB Number: 1545–1620.

Form Number: 8812.

Abstract: Section 24 of the Internal Revenue Code allows taxpayers a credit for each of their dependent children who is under age 17 at the close of the taxpayer's tax year. The credit is advantageous to taxpayers as it directly reduces the tax liability for the year and, if the taxpayer has three or more children, may result in a refundable amount of the credit. Form 8812 helps respondents correctly figure their refundable credit.

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: 3,500,000.

Estimated Time Per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 2,905,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 15, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–12741 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Midwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: A meeting of the Midwest Citizen Advocacy Panel will be held in Omaha, Nebraska.

DATES: The meeting will be held Thursday, June 14, 2001, and Friday, June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra McQuin at 1–888–912–1227, or 414–297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel (CAP) will be held Thursday, June 14, 2001, from 9:00 a.m. to 4:00 p.m. and Friday, June 15, 2001, from 8:00 a.m. to Noon at the Doubletree Hotel, 1616 Dodge Street, Omaha, Nebraska. The Citizen Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service. Public comments will be welcome during the meeting, or you can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Citizen Advocacy Panel, Mail Stop 1006 MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221.

The Agenda will include the following: Reports by the CAP sub-groups, presentation of taxpayer issues by individual members, discussion of issues, and an update on the recruitment for new panel members.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: May 15, 2001.

John J. Mannion,

Director, Program Planning Quality.

[FR Doc. 01–12742 Filed 5–18–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 66, No. 98

Monday, May 21, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1383–000]

Caledonia Generating, L.L.C.; Notice of Issuance of Order

May 9, 2001.

Correction

In notice document 01–12148, beginning on page 26848, in the issue of Tuesday, May 15, 2001, the docket number should read as set forth above.

[FR Doc. C1–12148 Filed 5–18–01; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

Correction

In notice document 01–11237 beginning on page 22561 in the issue of Friday, May 4, 2001, make the following correction:

On page 22562, in the second column, in the first paragraph in the 12th line, ''hrs. x 0.8 x $15 = $3,000). '' should read ''hrs. x 0.80 x $125 = $1000,000)+ clerical time (1,000 hrs. x 0.2 x $15 = $3,000).]''

[FR Doc. C1–11237 Filed 5–18–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. CFDA 93.576]

ORR Standing Announcement for Services to Recently Arrived Refugees[1]

Correction

In notice document 01–11680, beginning on page 23705, in the issue of Wednesday, May 9, 2001, make the following correction:

On page 23706, in the second column, under the heading **FOR FURTHER INFORMATION CONTACT:**, in the third line, the web address ''*Sbenjamin@commat;ACF.DHHS.GOV*'' should read ''*Sbenjamin@ACF.DHHS.GOV*''.

[FR Doc. C1–11680 Filed X–XX–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

[AAG/A Order No. 227–2001]

Privacy Act of 1974; System of Records

Correction

In notice document 01–9910, beginning on page 20478, in the issue of Monday, April 23, 2001, make the following corrections:

1. On page 20478, in the third column, under the heading **SUPPLEMENTARY INFORMATION:**, in the fifth line, ''reduce'' should read ''reduced''.

2. On page 20478, in the third column, footnote 1 at the bottom of the page, should appear on page 20479, in the first column, at the bottom of page.

3. On page 20479, in the first column, under the heading **''Categories of Records in the System:''**, in the 10th line, ''a'' should read ''as''.

4. On page 20480, in the second column, under the heading **''System Exempted From Certain Provisions of This Act:''**, in the fourth line, ''(3)(1)'' should read ''(e)(1)''.

[FR Doc. C1–9910 Filed X–XX–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. FAA–2000–7119; Amendment No. 121–280 and 135–78]

RIN 2120–AG89

Emergency Medical Equipment

Correction

In rule document 01–8932 beginning on page 19028 in the issue of Thursday, April 12, 2001, make the following corrections:

1. On page 19029, in the third column, under the ''Storage'' heading, fifth line, ''Wtih'' should read ''With''.

2. On the same page, in the same column, under the ''Visual Inspection'' heading, first line, ''he'' should read ''the''.

3. On page 19030, in the second column, in the third paragraph, 16th line ''on'' should read ''one''.

4. On page 19031, in the first column, item number 3., the second line, ''contained'' should read ''container''.

5. On the same page, in the second column, ninth line from the bottom of the page, ''A non-pop off valve'' should read ''A no-pop off valve''.

6. On page 19033, in the second column, in first complete paragraph, 22nd line, ''past'' should read ''part''.

7. On the same page, in the third column, under the heading ''Single Flight Attendant Requirement'', second paragraph, sixth line, ''first-air'' should read ''first-aid ''.

8. On page 19037, in the first column, under the heading ''Suggested Training for Pilots'', in the ''FAA response'', eighth line, ''circumstance,s'' should read ''circumstances, ''.

9. On page 19038, in the first column, first paragraph, fifth line, ''outlines'' should read ''outlined''.

10. On the same page, in the second column, under the heading ''Other Suggested Rule Language Changes for This Action'', fourth paragraph, seventh line, ''hand-on'' should read ''hands-on''.

11. On page 19039, in the first column, the heading **Alternative Considered**; should read **Alternatives Considered**.

12. On the same page, in the second column, fourth paragraph, sixth line, ''burden some'' should read ''burdensome''.

13. On page 19040, in the first column,in the first line, ''thre'' should read ''the'' and ''airline'' should read ''airlines ''.

14. On the same page, first full paragraph, second line, ''Felxibility '' should read ''Flexibility''.

15. On page 19041, in the second column, first paragraph, ''SARO'' should read ''SARP''.

16. On page 19042, in the second column, first full paragraph, first line, ''AED's EMK's and training'' should read ''AED's, EMK's, and training''.

[FR Doc. C1–8932 Filed 5–18–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
May 21, 2001

Part II

Department of Commerce

Economic Development Administration

National Technical Assistance, Training, Research, and Evaluation—Request for Grant Proposals; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 000515144–1101–02]

RIN: 0610–ZA

National Technical Assistance, Training, Research, and Evaluation—Request for Grant Proposals

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Request for Grant Proposals (RFP) Upon Availability of Funds.

SUMMARY: As part of its mission to assist economically distressed areas, EDA is soliciting proposals to (1) evaluate EDA's Economic Adjustment Program, (2) review the literature and practical experience regarding issues of critical importance to economic development practitioners nationally, (3) identify the location of and economic development problems facing communities with significant Asian American and Pacific Islander populations, and (4) disseminate economic development information to practitioners serving economically distressed urban areas. EDA issues this Notice to describe the conditions under which applications for these projects will be accepted and selected for funding. Projects will be funded if acceptable proposals are received.

DATES: Prospective applicants are advised that EDA will conduct a pre-proposal conference on June 6, 2001, at 2:00 p.m. EDT in the Department of Commerce, Herbert C. Hoover Building, 1401 Constitution Avenue, NW, Washington, DC 20230, Room 6057, at which time questions on these projects can be answered. Potential applicants are encouraged to provide written questions by June 1, 2001 (See **ADDRESSES** section below). Prospective applicants unable to attend this pre-proposal conference may participate by teleconference. Teleconference information may be obtained by calling (202) 482–4085 between 8:30–4:30 EDT on June 5, 2001.

Proposals for funding under this program will be accepted through June 20, 2001, at either of the addresses provided below. Proposals received after 4 p.m. EDT, on June 20, 2001, will not be considered for funding.

By July 2, 2001, EDA will notify proposers whether or not they will be given further funding consideration. Each successful proponent will be invited to submit an Application for Federal Assistance, OMB Control Number 0610–0094. Projects will be funded no later than September 30, 2001.

ADDRESSES: 1. Proposals may be mailed to: John J. McNamee, Director, Research and National Technical Assistance Division, Economic Development Administration, Room 7019, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, or Proposals may be hand-delivered to: John J. McNamee, Director, Research and National Technical Assistance Division, Economic Development Administration, Room 1874, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: John J. McNamee (202) 482–4085; email: jmcnamee@eda.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Areas of Special Interest

• Impact of EDA Economic Adjustment Program Investments

EDA invites proposals to evaluate the extent to which EDA's Economic Adjustment Program (EAP) investments achieve structural economic adjustment in the target communities and the length of time required to do so.

Background: EDA's EAP, which was established in 1974, helps communities design and implement strategies for facilitating adjustment to economic changes that are causing or threaten to cause serious structural damage to the underlying economic base. Such changes may occur suddenly or over time, and result from industrial or corporate restructuring, reduction in defense expenditures, natural disasters, depletion of natural resources, or new federal laws or requirements. EAP grants provide such communities with the critical resources necessary to organize and carry out adjustment strategies tailored to their particular economic problems and opportunities.

EDA economic adjustment assistance may fund, for example, strategic planning, technical assistance, construction of critical infrastructure, or establishment of a revolving loan fund (RLF). To date, EDA has invested approximately $2.2 billion in EAP.

The fundamental impact of an EAP investment should be the economic adjustment of the target area. Much of that impact will occur a considerable time after the investment is made. The proposed research should determine the extent to which target communities have begun (or achieved) structural economic adjustment, factors that affect the length of time needed to achieve full adjustment, and the contribution that the EAP investment made (or did not make) in stimulating or enabling positive structural economic change within a community.

In recent years EDA has funded independent evaluations of EAP's responses to Hurricane Andrew and to the Midwest Flood of 1993, both of which focused on short-term program implementation. It also funded a preliminary assessment of the impact of defense adjustment investments. An evaluation of the long-term impact of EAP RLF investments will be completed shortly. The evaluation proposed here will complement, but not duplicate, these evaluations.

Scope of Work: The successful applicant will develop a methodology for determining and evaluating the economic impact of EAP investments in achieving structural economic adjustment. In doing so, the applicant will examine such issues as whether the adjustment strategy was the appropriate one, i.e., was the underlying adjustment strategy rational, realistic, and responsive to the structural dislocation; was the most appropriate tool or mix of tools (planning, technical assistance, RLF, infrastructure) used; was the community committed to following the strategy? The research should also evaluate whether the success or failure to achieve structural economic adjustment correlates with implementation of the economic adjustment strategy, i.e., whether the strategy itself was an appropriate one, or whether the economic adjustment happened due to other factors. The applicant will conduct the evaluation using a sample group of projects. The sample should be stratified to include investments made under EDA's (a) regular EAP, (b) Defense adjustment, and (c) other special initiatives, including disaster relief. The final report must fully document the methodology used for the project. The results must be presented in up to seven briefings and/or training workshops as set forth in Section IV.C. below.

Cost: The total EDA share of the cost of this project may not exceed $300,000.

Timing: This project must be completed and the final report submitted within one year of approval of the project.

• Reviews of Economic Development Literature and Practice

EDA invites proposals to review the literature and practical experience regarding issues of critical importance to economic development practitioners nationally.

Background: One of EDA's main functions is to disseminate high-quality

information about economic development policies, issues, strategies, and techniques to practitioners. EDA fulfills this function by a number of means, including newsletters, conferences, use of the Internet, and targeted research. This project will help present important and emerging theoretical issues to practitioners and policy makers.

EDA is especially interested in reviews supporting EDA's core programs and initiatives. Examples include: e-commerce, productivity enhancement through infrastructure investment, leveraging of private investment for regional economic development, and technology-led economic development. EDA, however, welcomes other topics of importance to domestic economic development. Completed reviews must be analytical and should identify important policy implications. They must be prepared for practitioners rather than an academic audience. EDA expects researchers to demonstrate familiarity with the proposed topic and ability to conduct a timely, thorough, and objective review. EDA anticipates making multiple awards, but will not make multiple awards to any individual researcher. Authors are encouraged to submit the final review paper for publication as described below.

Scope of Work: Successful applicants will: (1) Prepare a review paper that (a) describes and analyzes critically, key debates in the literature, analytical techniques of broad importance to practitioners and/or the range of experience with specific economic development strategies; (b) identifies important policy implications of the research; (c) represents original research not previously submitted for publication elsewhere; (d) is of length and quality suitable for publication in a peer-reviewed journal; and (e) is written in a style appropriate for practitioners. (2) Conduct up to three presentations as described in Section IV.C. below.

Cost: EDA may provide funding totaling up to $75,000 for all reviews funded under this RFP. The total EDA share of the cost for any single review may not exceed $20,000. Should additional funding become available, EDA may increase the total funding for this RFP. EDA anticipates that most proposals will be in the range of $10,000 to $15,000.

Timing: EDA anticipates that most reviews will take six months or less, but recognizes that this will vary with the nature of the research. All projects must be completed and the review paper must be submitted within nine months of project approval. Presentations may take place up to one year after the research paper is submitted.

• Economic Development Needs of Asian Americans and Pacific Islanders in Distressed Areas

Background: Executive Order 13125, signed on June 7, 1999, seeks to improve the quality of life for Asian Americans and Pacific Islanders (AAPI) by, among other things, increasing their participation in federal programs where they may be underserved. The U.S. Department of Commerce seeks to identify the locations of and economic development problems facing communities with significant AAPI populations. Where a community with a significant AAPI population also has a significant population of other minorities, the research should address the problems common to all minority groups in the community as well as those unique to the AAPI population.

Scope of Work: The successful applicant will (1) identify the location of distressed communities that are composed primarily of AAPI populations; (2) identify and assess the special economic development challenges these distressed AAPI communities face; (3) prepare a final report that summarizes the research findings; and (4) conduct up to three briefings and/or training workshops as set forth in Section IV.C. below.

Cost: The total EDA share of the cost of this project may not exceed $75,000.

Timing: The project should be completed and the final research report submitted within six months of project approval.

• Information Dissemination in Distressed Urban Communities

Background: As part of its ongoing mission to assist economically distressed areas, EDA supports projects that disseminate information to economic development practitioners serving America's distressed communities.

Scope of Work: The successful applicant will undertake information dissemination activities that:

• Are targeted at a national audience of economic development practitioners working in America's distressed urban communities;

• Take greater advantage of new technologies for information dissemination (Internet, videoconferencing, e-mail, etc.);

• Identify and provide information in new or emerging areas of economic development needed by practitioners serving distressed urban areas;

• Support the development and greater understanding of new economic development tools and national, state, and local programs designed to relieve urban economic distress; and

• Influence economic development outcomes by improving the quality, accessibility, and timeliness of critical information available to economic development practitioners.

Each proposal submitted must:

(1) Identify and describe the target audience and the reason(s) why the proposed information dissemination activity is necessary;

(2) Describe how the organization plans to achieve the proposed target audience penetration;

(3) Describe the types of information that will be disseminated;

(4) Justify why the proposed activity should be federally funded;

(5) Describe the economic development outcomes or activities that will be influenced by the information dissemination efforts; and

(6) For activities proposed for multiyear funding (up to three years maximum), justify the need for such funding.

Cost: A total of $125,000 is available for this project. EDA anticipates funding only one information dissemination project under this RFP.

Timing: The award made under this RFP is for one year. However, it may be eligible for multiyear funding, i.e., renewable for two additional years after the initial award is made, at the same or lower annual project cost, subject to funding availability, satisfactory performance under the initial and, if applicable, subsequent award, and at the sole discretion of EDA.

Additional Requirements: (1) The proposed project should not be primarily for the benefit of the grantee, narrowly focused organizations, or localized geographic areas.

(2) The grantee shall participate in up to three EDA conferences each year. Locations and dates of the conferences attended shall be at EDA's sole discretion.

II. How To Apply

A. Eligible Applicants

Eligible applicants are as follows: Institutions of higher education; consortiums of institutions of higher education; public or private nonprofit organizations or associations acting in cooperation with officials of a political subdivision of a state, for-profit organizations, and private individuals; areas meeting requirements under 13 CFR 301.2; Economic Development Districts; Indian tribes; consortiums of Indian tribes; states, cities, or other political subdivisions of a state;

consortiums of political subdivisions of states.

B. Proposal Submission Procedures

Each proposal submitted must include:

(1) A description of how the researcher(s) intend(s) to carry out the scope of work (not to exceed 10 pages in length);

(2) A proposed budget and accompanying explanation;

(3) Resumes/qualifications of key staff (not to exceed two pages per individual, with an additional two pages allowed for a single summary description of all organizations/consultants named in the proposal); and

(4) A proposed schedule for completion of the project.

EDA will not accept proposals submitted by FAX. Proposals received after 4:00 p.m. EDT on June 20, 2001, will not be considered.

III. Selection Process and Evaluation Criteria

All proposals must meet EDA's statutory and regulatory requirements. Proposals will receive initial review by EDA to assure that they meet all requirements of this RFP and applicable provisions of 13 CFR Chapter III, including, for example, eligibility and relevance to the specified project as described herein. EDA's general selection process and criteria are set out in 13 CFR 304.1, 304.2, and 307.10. Proposals that do not meet all items required or that exceed the page limitations of Section II.B. of this RFP, will be considered nonresponsive. Proposals that do meet these requirements will be evaluated by a review panel comprised of at least three members all of whom will be full-time federal employees. The panel will carry out its selection process using the following criteria:

(1) The quality of a proposal's response to the Scope of Work and other requirements described in Section I above;

(2) The ability of the prospective applicant to successfully carry out the proposed activities; and

(3) Cost to the federal government.

If a proposal is selected, EDA will provide the proponent with an Application for Federal Assistance (OMB Control Number 0610–0094). Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

IV. Additional Information

A. Authority

The Public Works and Economic Development Act of 1965, as amended (Pub. L. 89–136, 42 U.S.C. 3121 *et seq.*), including the comprehensive amendments by the Economic Development Administration Reform Act of 1998 (Pub. L. 105–393) (PWEDA) authorizes EDA to make grants for training, research, and technical assistance, including grants for program evaluation and project impact analyses, that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment (42 U.S.C. 3147, Section 207). Public Law 106–553 makes funds available for this program.

B. Catalog of Federal Domestic Assistance

11.303 Economic Development Technical Assistance.
11.312 Research and Evaluation.

C. Program Description

For a description of this program see PWEDA and 13 CFR Chapter III, § 307 Subpart C.

EDA assistance is focused on areas experiencing significant economic distress, defined principally as per capita income of 80 percent or less of the national average; or an unemployment rate that is, for the most recent 24-month period for which data are available, at least one percent greater than the national average; or a special need, as determined by EDA.

Costs

Ordinarily, the applicant is expected to provide a 50% non-federal share of project costs. However, EDA may reduce or waive the required 50% matching share of the total project costs, provided the applicant can demonstrate: (1) The project is not feasible without and the project merits such a reduction or waiver, or (2) the project is addressing major causes of distress in the area serviced and requires the unique characteristics of the applicant, which will not participate if it must provide all or part of a 50% non-federal share, or (3) the project is for the benefit of local, state, regional, or national economic development efforts, and will be of no or only incidental benefit to the recipient, or (4) the requirements of 13 CFR § 301.4(b) (table) are satisfied (see 13 CFR § 307.11).

Briefings and Reports

Three of the projects described in this RFP include a requirement that the successful applicant(s) conduct briefings and/or training workshops for individuals and organizations interested in the project results. The completion dates set forth above are only for completion of the project and submission of the written report. Briefings/workshops will take place no later than one year after submission of the final report. Locations and dates of the briefings/workshops are at EDA's sole discretion. Usually these consist of at least one briefing in Washington, DC, with the other briefings/workshops held in conjunction with one or more of EDA's regional conferences.

Unless otherwise noted, each award includes a requirement that the applicant submit an electronic version and 500 hard copies of the final report in formats acceptable to EDA.

D. Other Requirements

See EDA's Notice of Funding Availability for FY 2001 (66 FR 15001ff, 3/14/2001) for additional information and requirements (available on the Internet at http://www.doc.gov/eda/html/1d_fund_prog.htm, under the heading ''Notices of Funding Availability.''

This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: May 15, 2001.

David L. Temple, Jr.,

Deputy Assistant Secretary for Program Operations.

[FR Doc. 01–12671 Filed 5–18–01; 8:45am]

BILLING CODE 3510–24–U

Federal Register

Monday,
May 21, 2001

Part III

The President

Federal Register
Vol. 66, No. 98
Monday, May 21, 2001

Presidential Documents

Title 3—

The President

Proclamation 7438 of May 16, 2001

National Biotechnology Week

By the President of the United States of America

A Proclamation

For thousands of years, man has been utilizing and modifying biological processes to improve man's quality of life. Scientific advances have enabled biotechnology to play an increasingly large role in the development of new products that enhance all areas of our lives.

In the battle against disease, our ever-increasing knowledge of cellular and genetic processes continues to improve the quality of our health care. Biotechnology has contributed to the development of vaccines, antibiotics, and other drugs that have saved or prolonged the lives of millions of people. Insulin, which is vital in the treatment of diabetes, can now be produced inexpensively and in large quantities through the use of genetically engineered bacteria. In addition, exciting gains in the understanding of the human body's genetic code show significant promise in finding treatments and eventually a cure for many diseases. This technology is now central to the research being conducted on diseases such as cancer, diabetes, epilepsy, multiple sclerosis, heart and lung disease, Alzheimer's disease, and Acquired Immune Deficiency Syndrome (AIDS).

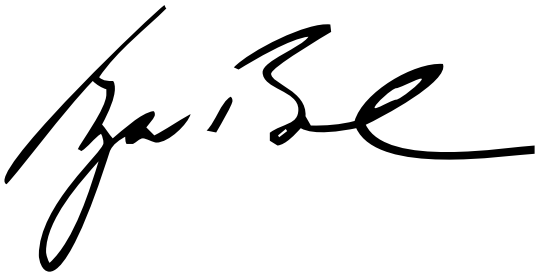
Consumers enjoy continual improvements to the quality and quantity of our Nation's food supply. Genetic engineering will enable farmers to modify crops so that they will grow on land that was previously considered infertile. In addition, it will enable farmers to grow produce with enhanced nutritional value. We also are benefiting from crops that resist plant diseases and insects, thus reducing the use of pesticides.

The environmental benefits of biotechnology can be realized through the increased ability of manufacturers to produce their products with less energy, pollution, and waste. In addition, the development of new biotechnology promises to improve our ability to clean up toxic substances from soil and water and improve waste management techniques.

Our Nation stands as a global leader in research and development, in large part because of our successes in understanding and utilizing the biological processes of life. The field of biotechnology is important to the quality of our lives, the protection of our environment, and the strength of our economy. We must continue to be leaders in the pursuit of knowledge and technology, and we must be vigilant to ensure that new technologies are regulated and used responsibly towards achieving noble goals.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 13 through May 19, 2001, as National Biotechnology Week. I call upon the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

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



[FR Doc. 01–12966
Filed 5–18–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7439 of May 16, 2001

National Defense Transportation Day and National Transportation Week, 2001

By the President of the United States of America

A Proclamation

America's achievements in transportation have helped lay the foundation for our strength and prosperity. As our Nation moves forward into the 21st century, we celebrate how modern transportation has transformed the world and recognize the many men and women who have contributed to its development and advancement.

Whether traveling by road, rail, water, or air, Americans can choose among a large number of options in reaching their destinations. But beyond moving people, our diverse transportation system also makes possible the delivery of countless products throughout the country. Whether intended for individuals, private organizations, government agencies, or merchants, the shipment and transfer of these goods helps to generate and sustain the economic growth that benefits us all.

Our transportation system also contributes vitally to the security of the United States. From the early days of the merchant marine at the time of our Nation's founding, to the latest in 21st century aircraft, our diverse methods of transportation have moved troops and carried defense cargo quickly and efficiently both in peacetime and in war.

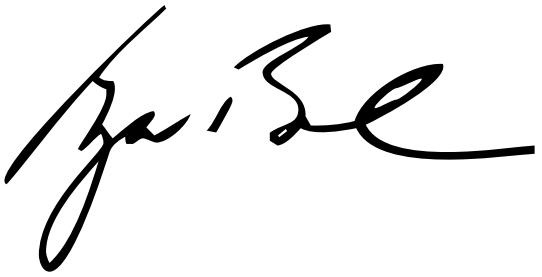
To meet America's future needs, our Nation must take advantage of scientific and technological innovation to improve existing transportation systems and develop new ones. We must strive to enhance their reliability and efficiency and close the gap between the demand for transportation and the capacity of the transportation infrastructure.

At the same time, safety will always remain our top priority. Investments in transportation must contribute to the security of the traveling public and improve access for all Americans. Our efforts to modify and strengthen transportation systems must also safeguard the environment and use energy wisely. Through these measures, we can conserve our precious natural resources and reinforce the transportation infrastructure our Nation needs to thrive in a dynamic and competitive world.

To recognize the men and women who work in transportation and thereby contribute to our Nation's well-being, defense, and progress, the United States Congress, by joint resolution approved May 16, 1957 (36 U.S.C. 120) has designated the third Friday in May of each year as ''National Defense Transportation Day,'' and, by joint resolution approved May 14, 1962 (36 U.S.C. 133), declared that the week during which that Friday falls be designated ''National Transportation Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Friday, May 18, 2001, as National Defense Transportation Day and May 13 through May 19, 2001, as National Transportation Week. I urge all Americans to recognize how our modern transportation system has enhanced our economy and contributed to our quality of life.

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



[FR Doc. 01–12967
Filed 5–18–01; 8:45 am]
Billing code 3195–01–P

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Federal Register

Vol. 66, No. 98

Monday, May 21, 2001

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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.

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H.R. 256/P.L. 107–8

To extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (May 11, 2001; 115 Stat. 10)

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37	(869–042–00130–3)	32.00	July 1, 2000
38 Parts:			
0–17	(869–042–00131–1)	40.00	July 1, 2000
18–End	(869–042–00132–0)	47.00	July 1, 2000
39	(869–042–00133–8)	28.00	July 1, 2000
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–042–00135–4)	28.00	July 1, 2000
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
53–59	(869–042–00138–9)	21.00	July 1, 2000
60	(869–042–00139–7)	66.00	July 1, 2000
61–62	(869–042–00140–1)	23.00	July 1, 2000
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–042–00144–3)	47.00	July 1, 2000
81–85	(869–042–00145–1)	36.00	July 1, 2000
86	(869–042–00146–0)	66.00	July 1, 2000
87-135	(869–042–00146–8)	66.00	July 1, 2000
136–149	(869–042–00148–6)	42.00	July 1, 2000
150–189	(869–042–00149–4)	38.00	July 1, 2000
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–042–00151–6)	36.00	July 1, 2000
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–042–00153–2)	29.00	July 1, 2000
400–424	(869–042–00154–1)	37.00	July 1, 2000
425–699	(869–042–00155–9)	48.00	July 1, 2000
700–789	(869–042–00156–7)	46.00	July 1, 2000
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–042–00158–3)	15.00	July 1, 2000
101	(869–042–00159–1)	37.00	July 1, 2000
102–200	(869–042–00160–5)	21.00	July 1, 2000
201–End	(869–042–00161–3)	16.00	July 1, 2000
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
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186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1999, through July 1, 2000. The CFR volume issued as of July 1, 1999 should be retained..