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Presidential Documents

Title 3—

The President

Proclamation 7444 of May 25, 2001

Prayer for Peace, Memorial Day, 2001

By the President of the United States of America

A Proclamation

''Humility must always be the portion of any man who receives acclaim earned in the blood of his followers and the sacrifices of his friends.'' These words, spoken by General Dwight D. Eisenhower following Germany's surrender in 1945, paid tribute to his fallen comrades as he humbly acknowledged that their ultimate sacrifice gave occasion for recognition of his leadership.

Similarly, we stand as a Nation that is strong and deserving of praise. Yet we are humbled, because we remember that the wealth of this Nation's heritage, the strength of its ideals, and the extent of its freedom came with a tremendous price. These treasures were purchased with the lives of American service men and women, a cost borne prominently by several generations. We are humbled because so many bright futures, hopes, and dreams were sacrificed for the abundance of opportunities we now freely pursue.

Through the course of our Nation's history, more than 41 million Americans have served the cause of freedom and more than a million have died in its name. On this noble American holiday, we solemnly pause to remember the men and women who gave their lives in service to our Nation. We honor those generations and individuals who fought for liberty and in defiance of tyranny that this unique experiment in self-government might long endure.

At a bridge at Concord, in the muddy trenches of Europe, the rugged mountains of Korea, the dense forests of Asia, or across the burning sands of the Persian Gulf, America's heroes have advanced democracy around the globe and defended the liberties we hold dear. We are particularly mindful of our fallen patriots as we mark the 60th anniversary of the bombing of Pearl Harbor and the 10th anniversary of Operation Desert Storm.

We honor the final sacrifice of our service men and women by dedicating our own lives to peace and the defense of freedom. For these ideals they fought, and for these ideals we continue to strive. May we stand with diligence and with humility on the broad shoulders of those whose brave deeds and sacrifice we memorialize today. Let all of us commit this day, whether in public ceremony or in quiet reflection over a single grave, to remember them in fitting tribute.

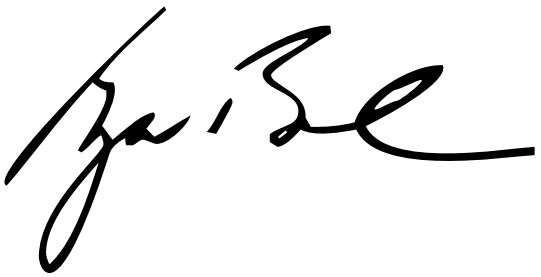
In respect for their devotion to America, the Congress by a joint resolution approved on May 11, 1950 (64 Stat. 158), has requested the President to issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer. The Congress, by Public Law 106–579, has also designated the minute beginning at 3:00 p.m. local time on that day as a time for all Americans to observe the National Moment of Remembrance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby designate Memorial Day, May 28, 2001, as a day of prayer for permanent peace, and I designate the hour beginning in each

locality at 11:00 a.m. of that day as a time to unite in prayer. I also ask all Americans to observe the National Moment of Remembrance beginning at 3:00 p.m. local time on Memorial Day. I urge the press, radio, television, and all other media to participate in these observances.

I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth 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. 01–13788
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Billing code 3195–01–P

Presidential Documents

Executive Order 13214 of May 28, 2001

President's Task Force To Improve Health Care Delivery for Our Nation's Veterans

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to provide prompt and efficient access to consistently high quality health care for veterans who have served the Nation, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans (Task Force).

Sec. 2. *Membership.* The Task Force shall be comprised of 15 members appointed by the President. Two of the 15 members shall serve as co-chairs of the Task Force. The Task Force membership shall include health care experts, officials familiar with Department of Veterans Affairs and Department of Defense health care systems, and representatives from veteran and military service organizations.

Sec. 3. *Mission.* The mission of the Task Force shall be to:

(a) identify ways to improve benefits and services for Department of Veterans Affairs beneficiaries and Department of Defense military retirees who are also eligible for benefits from the Department of Veterans Affairs through better coordination of the activities of the two departments;

(b) review barriers and challenges that impede Department of Veterans Affairs and Department of Defense coordination, including budgeting processes, timely billing, cost accounting, information technology, and reimbursement. Identify opportunities to improve such business practices to ensure high quality and cost effective health care; and

(c) identify opportunities for improved resource utilization through partnership between the Department of Veterans Affairs and the Department of Defense to maximize the use of resources and infrastructure, including: buildings, information technology and data sharing systems, procurement of supplies, equipment and services, and delivery of care.

Sec. 4. *Administration.*

(a) The Department of Veterans Affairs shall, to the extent permitted by law, provide administrative support and funding for the Task Force.

(b) Members of the Task Force shall serve without any compensation for their work on the Task Force. Members appointed from among private citizens of the United States, however, while engaged in the work of the Task Force, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707), to the extent funds are available.

(c) The co-chairs of the Task Force shall appoint an Executive Director to coordinate administration of the Task Force. To the extent permitted by law, office space, analytical support, and additional staff support for the Commission shall be provided by executive branch departments and agencies as directed by the President.

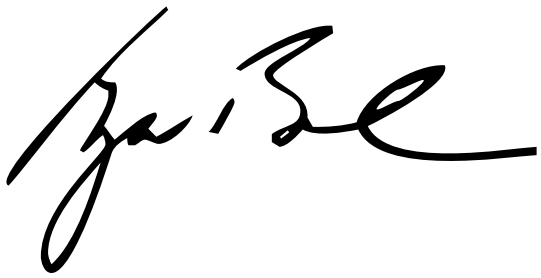
(d) The heads of the executive branch departments and agencies shall, to the extent permitted by law, provide the Task Force with information as requested by the co-chairs.

(e) At the call of the co-chairs, the Task Force shall meet as necessary to accomplish its mission.

(f) The functions of the President under the Federal Advisory Committee Act, as amended, except for those in section 6 of that Act, that are applicable to the Task Force, shall be performed by the Department of Veterans Affairs, in accordance with the guidelines that have been issued by the Administrator of General Services.

Sec. 5. *Reports.* The Task Force shall report its findings and recommendations to the President, through the Secretary of Veterans Affairs and Secretary of Defense. The Task Force shall issue an interim report in 9 months from the date of the first meeting of the Task Force. The Task Force shall issue a final report prior to the end of the second year of operation.

Sec. 6. *Termination.* The Task Force shall terminate 30 days after submitting its final report, but no later than 2 years from the date of this order.



THE WHITE HOUSE,
May 28, 2001.

[FR Doc. 01–13869
Filed 5–30–01; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 241 and 245

[INS No. 2113–01, AG Order No. 2429–2001]

RIN 1115–AG05

Executive Office for Immigration Review; Adjustment of Status for Certain Nationals of Nicaragua, Cuba, and Haiti

AGENCY: Immigration and Naturalization Service, and Executive Office for Immigration Review, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements the changes that the Legal Immigration Family Equity Act (LIFE Act) and the LIFE Act Amendments made to section 202 of the Nicaraguan Adjustment and Central American Relief Act (NACARA) and section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA). The LIFE Act and its Amendments provide that eligible aliens who are nationals of Nicaragua, Cuba, or Haiti may apply for adjustment of status to that of lawful permanent resident under NACARA or HRIFA without being subject to certain barriers that existed prior to the enactment of the LIFE Act and its amendments. This rule amends the Department of Justice's (Department's) regulations by incorporating the waivers, exceptions, and motion to reopen provisions mandated by the LIFE Act and its amendments.

DATES: *Effective date:* This interim rule is effective May 31, 2001.

Comment date: Written comments must be submitted on or before July 30, 2001.

ADDRESSES: For matters relating to the Immigration and Naturalization Service, please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC 20536, or via fax to (202) 305–0143. To ensure proper handling please reference INS No. 2113–01 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment. For matters relating to the Executive Office for Immigration Review (EOIR), submit written comments to Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: For matters relating to the Service, contact Kevin J. Cummings, Assistant Director, Residence and Status Branch, Office of Adjudications, Immigration and Naturalization Service, 425 I Street NW, Room 3214, Washington, DC 20536, telephone (202) 514–4754.

For matters relating to EOIR, contact Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia 22041, telephone (703) 305–0470.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of This Interim Regulation?

On December 21, 2000, President Clinton signed into law the Legal Immigration Family Equity Act (LIFE Act), Title XI of H.R. 5548 enacted by reference in Public Law 106–553, and the LIFE Act Amendments of 2000, Title XV of H.R. 5666 enacted by reference in Public Law 106–554. Section 1505 of the LIFE Act Amendments makes technical corrections to NACARA and HRIFA to provide that the reinstatement of removal orders under section 241(a)(5) of the Immigration and Nationality Act (Act) no longer applies to applicants for benefits under NACARA and HRIFA, and that the grounds of inadmissibility under sections 212(a)(9)(A) and 212(a)(9)(C) of the Act may be waived for aliens applying for adjustment under section 202 of NACARA and section 902 of HRIFA. The purpose of this interim rule is to make existing Department regulations conform to these new laws.

Why Were NACARA Section 202 and HRIFA Amended?

Applicants for adjustment of status under NACARA and HRIFA were originally subject to the reinstatement provisions of section 241(a)(5) of the Act. An alien subject to reinstatement of a removal order is not eligible for any relief under the Act, including waivers of any ground of inadmissibility necessary to establish eligibility for NACARA 202 or HRIFA adjustment. In addition, were such applicants found to be inadmissible under sections 212(a)(9)(A) or (C) of the Act, they would have been required to seek consent to reapply from the Attorney General in order to qualify for an exception to these grounds of inadmissibility. Because a significant number of otherwise eligible aliens were believed to be ineligible for adjustment of status under NACARA or HRIFA because of these statutory restrictions, Congress enacted the LIFE Act and its amendments to ameliorate this problem.

What Does This Interim Rule Change?

In accordance with the LIFE Act and the LIFE Act Amendments, the Department is amending its regulation to reflect that the grounds of inadmissibility under sections 212(a)(9)(A) and 212(a)(9)(C) of the Act may now be waived for applicants for adjustment of status under NACARA and HRIFA, and that section 241(a)(5) of the Act no longer applies to such applicants.

Sections 212(a)(9)(A) and 212(a)(9)(C) of the Act are grounds of inadmissibility relating to aliens previously removed and aliens who are unlawfully present in the United States after previous immigration violations, respectively. Section 212(a)(9)(A)(ii) of the Act provides that an alien who has been previously deported or removed, or who has departed the United States voluntarily while under an outstanding order of deportation or removal, is inadmissible for at least 10 years; section 212(a)(9)(A)(iii) of the Act provides that the Attorney General may authorize exceptions. Section 212(a)(9)(C) of the Act provides that an alien is inadmissible if he or she enters or attempts to enter without being admitted (without inspection) on or after April 1, 1997, following an order of deportation or removal, or if he or she enters or attempts to enter without being

admitted (without inspection) following an aggregate unlawful presence of more than 1 year on or after April 2, 1998. The Attorney General may authorize exceptions under section 212(a)(9)(C)(ii) of the Act. An alien who is inadmissible for the applicable period set forth in sections 212(a)(9)(A) or (C) of the Act is ineligible for adjustment of status unless he or she first obtains the Attorney General's consent to reapply for admission under the exception provisions of section 212 of the Act. The exception to inadmissibility under either section 212(a)(9)(A)(iii) or (C)(ii) of the Act may be obtained if the Attorney General has given consent to the alien to reapply for admission during the applicable period.

Section 241(a)(5) of the Act provides for the reinstatement of a removal order against any alien who illegally re-enters the United States after having been removed or after having departed voluntarily under an order of removal. It also bars any alien whose removal order has been reinstated from receiving any relief under the Act, including any waivers of grounds of inadmissibility necessary for the grant of adjustment of status.

This interim rule amends the Department's regulations at 8 CFR 245.13(a)(3) to clarify that section 241(a)(5) of the Act does not apply to applicants for adjustment of status under NACARA and HRIFA. Additionally, this interim rule amends 8 CFR 245.13 and 245.15 to establish special procedures to enable such applicants to seek waivers of sections 212(a)(9) (A) and (C) grounds of inadmissibility.

What Are the Section 212(a)(9)(A) and (C) Waiver Procedures?

The provisions of LIFE allow that an alien's inadmissibility under section 212(a)(9)(A) and section 212(a)(9)(C) of the Act may now be waived in NACARA 202 and HRIFA cases. While an otherwise inadmissible NACARA 202 or HRIFA adjustment applicant no longer has to obtain the consent of the Attorney General to reapply for admission, the LIFE Act amendments provide that in granting a waiver of these grounds of inadmissibility to NACARA 202 or HRIFA adjustment applicants, the Attorney General shall use the ''standards'' utilized in granting consent to reapply under sections 212(a)(9)(A)(iii) and (C)(ii) of the Act. This interim regulation provides that NACARA 202 and HRIFA applicants may apply for a waiver of any ground described in section 212(a)(9)(A) or (C) of the Act by filing a Form I–601, Application for Waiver of Ground of Excludability, with the required fee, unless that fee has been waived. NACARA 202 and HRIFA applicants may apply for a waiver of these grounds of inadmissibility while present in the United States and without regard to the normal requirement of filing a Form I–212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal.

Can a NACARA or HRIFA Adjustment Applicant Whose Case Was Previously Denied by the Service or Who Never Applied for This Relief File a Motion To Reopen?

An alien who is now eligible for adjustment of status under NACARA 202 or HRIFA as a result of the LIFE Act Amendments and whose application for adjustment of status under NACARA 202 or HRIFA has been denied by the Service may file a Motion to Reopen his or her case before the Service if:

(1) The Service has not issued a Notice to Appear (Form I–862), a Notice of Referral to Immigration Judge (Form I–863), or a Notice of Certification (Form I–290C) placing the alien in proceedings that are currently pending before the immigration judge; and

(2) The alien pays the filing fee for a motion to reopen set forth in 8 CFR 103.7(b)(1) or is granted a waiver of such fee in accordance with 8 CFR 103.7(c).

Also, an alien who was in proceedings and who has been made eligible for adjustment of status under the LIFE Act Amendments to NACARA or HRIFA, but who did not apply for such adjustment by the statutory deadline of March 31, 2000, or whose proceedings before EOIR resulted in a final order following a denial by the Service or EOIR of an application for adjustment of status under NACARA or HRIFA, may seek to reopen his or her removal proceedings before the Immigration Court or the Board of Immigration Appeals, as appropriate, for the sole purpose of applying for NACARA 202 or HRIFA adjustment. The alien must file such a motion to reopen on or before June 19, 2001.

What if an Alien Did Not Apply for Adjustment of Status and Was Never Placed in Exclusion, Deportation, or Removal Proceedings by the Service?

This rule does not apply to them. The legislation passed by Congress only applies to those aliens who are subject to final orders of deportation, exclusion, or removal and who applied for adjustment of status under NACARA 202 or HRIFA by the statutory deadline of March 31, 2000. The motion to reopen provisions of this rule only apply to aliens who would be subject to a reinstatement of a previous removal order under section 241(a)(5) of the Act, and/or who are inadmissible under section 212(a)(9)(A) or 212(a)(9)(C) of the Act. It should be noted that aliens who are subject to 212(a)(9)(C)(i)(I) but who have not previously applied for adjustment of status before March 31, 2000, are ineligible for the motion to reopen provisions of this rule.

What Happens if an Alien Is Presently in Exclusion, Deportation, or Removal Proceedings?

Persons who are presently in proceedings before the Immigration Court or the Board and are pursuing a timely filed application for adjustment of status under NACARA 202 or HRIFA will remain within the jurisdiction of EOIR. Such pending applications shall be adjudicated by the Immigration Court or the Board in accordance with the LIFE Act Amendments to NACARA 202 or HRIFA, as appropriate.

Under What Circumstances May an Alien Whose Proceedings Before the Immigration Court or the Board of Immigration Appeals Have Been Reopened in Accordance With the LIFE Act Amendments to NACARA 202 and HRIFA Apply for Adjustment of Status Before the Service?

An alien who is granted a motion to reopen under the LIFE Act Amendments to NACARA 202 or HRIFA by an Immigration Court or the Board may move to have the proceedings administratively closed for the purpose of filing with the Service an application for adjustment of status under NACARA 202 or HRIFA as amended by the LIFE Act Amendments. If the Service concurs in such a motion, the Immigration Court or the Board, as appropriate, may administratively close the proceedings for that purpose.

Good Cause Exception

The Department's implementation of this interim rule upon publication in the **Federal Register** with a post-promulgation period of public comments is based upon the ''good cause'' exception found at 5 U.S.C. 553(b)(B) and (d)(3). The reason and necessity for immediate implementation is because the LIFE Act and its amendments became effective immediately upon enactment on December 21, 2000. Because the law became effective upon enactment, aliens who may otherwise be ineligible for adjustment became eligible immediately. This regulation eliminates existing bars to HRIFA and NACARA 202 benefits by implementing statutorily

mandated waiver, exception, and motion to reopen provisions set forth in section 1505 of the LIFE Act amendments, which was included in the Consolidated Appropriations Act for 2001, Public Law 106–554. Publication of this interim rule with an immediate effective date will allow affected aliens to have their cases processed expeditiously.

As noted previously, an alien subject to a final order of exclusion, deportation, or removal who has been made eligible for adjustment of status under the LIFE Act Amendments to NACARA or HRIFA, but who did not apply for such adjustment by the statutory deadline of March 31, 2000, may seek to reopen his or her removal proceedings before the Immigration Court or the Board of Immigration Appeals, as appropriate, to apply for NACARA 202 or HRIFA adjustment. Such an alien must file his or her motion to reopen on or before June 19, 2001. Issuance of a proposed rule at this time would delay a final rule for several weeks, thereby denying such aliens an opportunity to file a motion to reopen before the statutory deadline. In light of all the foregoing, the Department finds that it would be unnecessary and contrary to the public interest to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b).

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Attorney General has reviewed this rule and, by approving it, certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule applies to individual aliens who wish to apply for adjustment of status under NACARA or HRIFA. It does not have an effect on small entities as that term is defined in 5 U.S.C. 601(6).

Executive Order 12866: Regulatory Planning and Review

This rule is considered by the Department of Justice to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 13132: Federalism

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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

There are no new information collection requirements in this rule. Forms I–212 and I–601 have previously been approved for use by the Office of Management and Budget under the Paperwork Reduction Act. The OMB control numbers for these collections are contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 241

Aliens.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 241—APPREHENSION AND DETENTION OF ALIENS ORDERED REMOVED

1. The authority citation for part 241 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1223, 1227, 1253, 1255, and 1330; 8 CFR part 2.

2. Section 241.8 is amended by:

a. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f), respectively, and by

b. Adding a new paragraph (d), to read as follows:

§ 241.8 Reinstatement of removal orders.

* * * * *

(d) *Exception for applicants for benefits under section 902 of HRIFA or sections 202 or 203 of NACARA.* If an alien who is otherwise subject to this section has applied for adjustment of status under either section 902 of Division A of Public Law 105–277, the Haitian Refugee Immigrant Fairness Act of 1998 (HRIFA), or section 202 of Pubic Law 105–100, the Nicaraguan Adjustment and Central American Relief Act (NACARA), the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply. The immigration officer may not reinstate the prior order in accordance with this section unless and until a final decision to deny the application for adjustment has been made. If the application for adjustment of status is granted, the prior order shall be rendered moot.

* * * * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

3. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; sec. 202, Pub. L. 105–100, 111 Stat. 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681–538; 8 CFR part 2.

4. Section 245.13 is amended by:

a. Adding the words ''as amended and without regard to section 241(a)(5) of the Act,'' immediately after ''Pub. L. 105–100,'' in the introductory text in paragraph (a);

b. Designating existing text in paragraph (c) as paragraph (c)(1);

c. Adding a heading for paragraph (c)(1);

d. Adding a new paragraph (c)(2);

e. Revising the heading for paragraph (d);

f. Designating existing text in paragraph (d)(4) as paragraph (d)(4)(i);

g. Adding a new paragraph (d)(4)(ii);

h. Revising paragraph (m);

i. Removing the word ''or'' at the end of paragraph (n)(3)(i);

j. Removing the period at the end of paragraph (n)(3)(ii) and inserting ''; or'' in its place; and

h. Adding a new paragraph (n)(3)(iii).

The revisions and additions read as follows:

§ 245.13 Adjustment of status of certain nationals of Nicaragua and Cuba under Public Law 105–100.

* * * * *

(c) * * *

(1) *General.* * * *

(2) *Special rule for waiver of inadmissibility grounds for NACARA applicants under section 212(a)(9)(A) and 212(a)(9)(C) of the Act.* An applicant for adjustment of status under section 202 of Public Law 105–100 who is inadmissible under section 212(a)(9)(A) or 212(a)(9)(C) of the Act, may apply for a waiver of these grounds of inadmissibility while present in the United States. Such an alien must file a Form I–601, Application for Waiver of Grounds of Excludability, with the director of the Texas Service Center if the application for adjustment is pending at that office, with the district director having jurisdiction over the application if the application for adjustment is pending at a district office, with the Immigration Judge having jurisdiction if the application for adjustment is pending before the Immigration Court, or with the Board of Immigration Appeals if the appeal is pending before the Board.

* * * * *

(d) *General.* * * *

(4) * * *

(ii) An alien may file a motion to reopen with the Immigration Court or the Board of Immigration Appeals, whichever had jurisdiction last, if the alien is present in the United States and subject to a final order of exclusion, deportation, or removal and has been denied adjustment of status under section 202 of NACARA by an Immigration Court or the Board or who never applied for adjustment of status on or before March 31, 2000, with either the Service, the Immigration Court or the Board, and who is now eligible for adjustment as a result of section 1505(a)(1) of the Legal Immigration Family Equity Act of 2000 (LIFE) and the LIFE amendments, Public Law 106–553 and Public Law 106–554, respectively. As provided by § 1505(a)(2) of the LIFE Act and its amendments, such a motion to reopen must be filed on or before June 19, 2001.

* * * * *

(m) *Denial and review of decision.*

(1) If the director denies the application for adjustment of status under the provisions of section 202 of Public Law 105–100, the director shall notify the applicant of the decision. The director shall also:

(i) In the case of an alien who is not maintaining valid nonimmigrant status and who had not previously been placed in exclusion, deportation or removal proceedings, initiate removal proceedings in accordance with § 239.1 of this chapter during which the alien may renew his or her application for adjustment of status under section 202 of Public Law 105–100; or

(ii) In the case of an alien whose previously initiated exclusion, deportation, or removal proceedings had been administratively closed or continued indefinitely under paragraph (d)(3) of this section, advise the Immigration Court that had administratively closed the proceedings, or the Board, as appropriate, of the denial of the application. Upon a motion to recalendar filed by the Service, the Immigration Court or the Board will then recalendar or reinstate the prior exclusion, deportation or removal proceedings, during which the alien may renew his or her application for adjustment under section 202 of Public Law 105–100; or

(iii) In the case of an alien who is the subject of an outstanding final order of exclusion, deportation, or removal, refer the decision to deny the application by filing a Form I–290C, Notice of Certification, with the Immigration Court that issued the final order for consideration in accordance with paragraph (n) of this section.

(2) Aliens who were denied adjustment of status by the director, but who are now eligible for such adjustment of status pursuant to section 1505(a)(1) of the LIFE Act and amendments, and have not been referred to immigration proceedings as specified in paragraph (m)(1) of this section may file a motion to reopen with the Service. If an alien has been referred to the Immigration Court or has filed an appeal with the Board after an Immigration Court has denied the application for adjustment under NACARA section 202, and proceedings are pending, then the application for adjustment of status will be adjudicated in accordance with section 1505(a) of the LIFE Act and its amendments. An alien present in the United States subject to a final order of removal after his or her application was denied by an Immigration Court or the Board, but who was made eligible for adjustment pursuant to section 1505(a) of the LIFE Act and its amendments may file a motion to reopen with the Immigration Court or the Board, whichever had jurisdiction last. Pursuant to section 1505(a)(2) of the LIFE Act and its amendments, motions to reopen proceedings before the Immigration Court or the Board must be filed on or before June 19, 2001.

(n) * * *

(3) * * *

(iii) Upon a motion to reopen filed not later than June 19, 2001, by an alien present in the United States who became eligible for adjustment of status under section 202 of Public Law 105–100, as amended by section 1505, Public Law 106–554.

* * * * *

5. Section 245.15 is amended by:

a. Revising the sentence in the introductory text in paragraph (b);

b. Adding a new paragraph (e)(3);

c. Redesignating paragraphs (g)(3)(i) and (g)(3)(ii) as paragraphs (g)(3)(iii) and (g)(3)(iv), respectively;

d. Redesignating the introductory text of paragraph (g)(3) as paragraph (g)(3)(i);

e. Adding new paragraph (g)(3)(ii);

f. Designating existing text in paragraph (r)(1) as paragraph (r)(1)(i);

g. Adding a new paragraph (r)(1)(ii);

h. Adding a new paragraph (r)(4);

i. Removing the word ''or'' at the end of paragraph (s)(4)(i);

j. Removing the period at the end of paragraph (s)(4)(ii), and inserting a ''; or'' in its place; and by

k. Adding a new paragraph (s)(4)(iii).

The revisions and additions read as follows:

§ 245.15 Adjustment of status of certain Haitian nationals under the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA).

* * * * *

(b) * * * Section 902 of Division A of Public Law 105–277, the Haitian Refugee Immigrant Fairness Act of 1998 (HRIFA), provides special rules for adjustment of status for certain nationals of Haiti, and without regard to section 241(a)(5) of the Act, if they meet the other requirements of HRIFA.

* * * * *

(e) * * *

(3) *Special rule for waiver of inadmissibility grounds for HRIFA applicants under section 212(a)(9)(A) and 212(a)(9)(C) of the Act.* An applicant for adjustment of status under HRIFA who is inadmissible under section 212(a)(9)(A) or 212(a)(9)(C) of the Act, may apply for a waiver of these grounds of inadmissibility while present in the United States. Such an alien must file Form I–601, Application for Waiver of Grounds of Excludability. If the application for adjustment is pending at the Nebraska Service Center, Form I–601 must be filed with the director of that office. If the application for

adjustment is pending at a district office, Form I–601 must be filed with the district director having jurisdiction over the application. If the application for adjustment is pending before the immigration court, Form I–601 must be filed with the immigration judge having jurisdiction, or with the Board of Immigration Appeals if the appeal is pending before the Board.

* * * * *

(g) * * *

(3) * * *

(ii) An alien present in the United States who is subject to a final order of exclusion, deportation, or removal and has been denied adjustment of status under section 902 of HRIFA by the Immigration Court or the Board, or who never applied for adjustment of status with the Service, an Immigration Court, or the Board on or before March 31, 2000, and who was made eligible for HRIFA benefits under the Legal Immigration Family Equity Act of 2000 (LIFE Act) and LIFE amendments, Public Law 106–553 and Public Law 106–554, respectively, may file a motion to reopen with either the Immigration Court or the Board, whichever had jurisdiction last. As provided by the LIFE Act, motions to reopen must be filed on or before June 19, 2001.

* * * * *

(r) * * *

(1) * * *

(ii) An alien made eligible for adjustment of status under HRIFA by the LIFE Act amendments and whose case has not been referred to EOIR under paragraphs (r)(2) or (r)(3) of this section, may file a motion to reopen with the Service.

* * * * *

(4)(i) An alien whose case has been referred to the Immigration Court under paragraphs (r)(2) or (r)(3) of this section, or who filed an appeal with the Board after his or her application for adjustment of status under section 902 of HRIFA was denied, and whose proceedings are pending, and who is now eligible for adjustment of status under HRIFA as amended by section 1505(b) of the LIFE Act and its amendments, may renew the application for adjustment of status with either the Immigration Court or the Board, whichever has jurisdiction. The application will be adjudicated in accordance with section 1505(b) of the LIFE Act and its amendments.

(ii) An alien present in the United States who is subject to a final order of exclusion, deportation or removal after his or her HRIFA adjustment application was denied by an Immigration Court or the Board, but who was made eligible for HRIFA adjustment as a result of section 1505(b) of the LIFE Act and its amendments, may file a motion to reopen with either the Immigration Court or the Board, whichever had jurisdiction last. Such motion to reopen must be filed on or before June 19, 2001.

(s) * * *

(4) * * *

(iii) Upon a motion to reopen filed not later than June 19, 2001, by an alien present in the United States who became eligible for adjustment of status under HRIFA, as amended by section 1505, of Public Law 106–554.

* * * * *

Dated: May 24, 2001.

Larry D. Thompson,

Acting Attorney General.

[FR Doc. 01–13642 Filed 5–30–01; 8:45 am]

BILLING CODE 4410–10–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AG44

Licensing Proceedings for the Receipt of High-Level Radioactive Waste at a Geologic Repository: Licensing Support Network, Design Standards for Participating Websites

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its Rules of Practice applicable to the use of the Licensing Support Network (LSN) for the licensing proceeding on the disposal of high-level waste (HLW) at a geologic repository. The amendments will establish the basic data structure and transfer standards (''design standards'') that participant LSN websites must use to make documentary material available. The amendments will also clarify the authority of the LSN Administrator (LSNA) to establish guidance for LSN participants on how best to meet the design standards and to review participant designs for compliance with the standards. Finally, the amendments will clarify the timing of participant compliance certifications.

EFFECTIVE DATE: July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–1642, e-mail FXC@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's regulations in 10 CFR part 2, Subpart J, provide for the use of an electronic information management system in the HLW repository licensing proceeding. Originally issued on April 14, 1989 (54 FR 14925), the information management system currently required by Subpart J is to have the following functions:

(1) To provide a Licensing Support Network (LSN) that allows full text search and retrieval access to the relevant documents of all parties and potential parties to the HLW repository licensing proceeding beginning in the time period before the Department of Energy (DOE) submits its license application for the repository;

(2) To provide for electronic submission of filings by the parties, as well as the orders and decisions of the Atomic Safety and Licensing Board during the proceeding; and

(3) To provide access to an electronic version of the HLW repository licensing proceeding docket for use during the hearing.

The creation of the LSN—originally called the ''Licensing Support System'' (LSS)—was stimulated by the requirements of Section 114(d)(2) of the Nuclear Waste Policy Act of 1982 (NWPA). This provision requires the Commission to issue a final decision approving or disapproving issuance of the construction authorization for a geologic repository for HLW within three years of the ''submission'' (i.e., docketing) of the DOE license application.[1] The Commission anticipated that the HLW proceeding would involve a substantial number of documents created by well-informed parties regarding numerous, complex issues. The Commission believed that

[1] The Commission interprets the requirement in Section 114(d) of the NWPA that the Commission ''shall issue a final decision approving or disapproving the issuance of a construction authorization not later than three years after the date of submission'' (emphasis added) of the license application, as three years from the docketing of the application. This interpretation is consistent with the Commission's general practice since its establishment in 1975 to tie hearing schedules to the docketing of a license application rather than the tendering of the application by the applicant, for the obvious reason that a license application may be substantially deficient in some material respect and must be returned to the applicant. This practice is reflected in the HLW repository hearing schedule contained in Appendix D to 10 CFR Part 2. However, the Commission would note that for purposes of DOE's obligation, under Section 114(b) of the NWPA, to ''submit'' the license application not later than ninety days after the date on which the recommendation of site designation is effective, the term ''submit'' would be interpreted as ''tender'', i.e., as in DOE's obligation to ''tender'' the license application to the NRC.

the LSS could facilitate the timely NRC technical review, and the timely petitioner ''discovery-type'' review, of DOE's license application by providing for electronic access to relevant documents before DOE submits its license application, as well as supplant the need for the traditional discovery process used in NRC proceedings involving the physical production of these documents after the license application is docketed. In addition, the Commission believed that early provision of these documents in an easily searchable form would allow for a thorough, comprehensive technical review of the license application by all parties and potential parties to the HLW licensing proceeding, resulting in better focused contentions in the proceeding. It was also contemplated that the LSS would facilitate agency responses to Freedom of Information Act (FOIA) requests by providing the public with electronic access to relevant documents.

Originally, the LSS was conceived of as a large centralized information management system administered by what was then called the Licensing Support System Administrator. To take advantage of the advances in technology that occurred since the issuance of the original rule, the Commission revised the rule (63 FR 71729; December 30, 1998) to create the LSN that would use the Internet to link geographically dispersed sites rather than relying on a complex and expensive centralized system. The current provisions of the LSN rule require DOE and NRC to make their documentary material available in electronic form beginning thirty days after DOE's submission of its site recommendation to the President of the United States. All other participants must make their documents available in electronic form no later than thirty days after the date that the repository site selection decision becomes final after review by Congress.

Although the Supplementary Information accompanying the 1998 revised rule noted that the availability of the Internet to link geographically dispersed sites appears to have the potential to satisfy the requirements and objectives of Subpart J, no specific design for the LSN was set forth in that final rule nor were any specific performance requirements established except to specify that the overall design must be ''effective and efficient.'' To establish these specific design standards, on August 22, 2000 (65 FR 50937), the Commission issued a proposed revision to its rules applicable to the LSN.

The proposed amendments would:

- Establish certain minimum design standards for data structure and data transfer (''design standards'') for individual participant websites that are necessary to ensure the LSN meets its objectives and functions;
- Supplement the existing responsibilities of the LSN Administrator by making it clear that the Administrator has the authority to review participant website designs to verify compliance with the basic design standards, including the authority to allow variances from those standards. In addition, it would make clear that the LSN Administrator has the authority to issue guidance to the LSN participants on how they might best meet the design standards; and
- Clarify the timing of the participant compliance certifications.

II. Comments on the Proposed Rule

The Commission received six comments on the proposed rule, as well as one supplemental comment from DOE clarifying some of its initial comments. Copies of those letters are available for public inspection and copying at the NRC Public Document Room, 11555 Rockville Pike, Room O–1F12, Rockville, MD, on the NRC website at *www.NRC.GOV.*, and in ADAMS. The comments fall into the following categories:

1. Comments on the proposed LSN design standards;
2. Comments on the proposed revisions to the responsibilities and authority of the LSN Administrator;
3. Comments on the design of the LSN site and the Regulatory Analysis; and
4. Comments on the timing of participant compliance certifications.

The Commission also received several comments on the Level One and Level Two Functional Requirements for the LSN. The Level One Functional Requirements identify all of the specific functions that the LSN must perform to achieve the requirements of the rule. The Level Two Functional Requirements provide more detailed information on how these functions will be performed. The functional requirements will eventually be issued by the LSN Administrator as guidance on the design standards. However, they were not part of the proposed rulemaking but were circulated to the LSN Advisory Review Panel (LSNARP) for preliminary review. The LSNARP is an NRC advisory committee composed of potential LSN users, chartered under the Federal Advisory Committee Act, 5 U.S.C. App. 2, to provide advice to the LSN Administrator and the Commission on technical and policy issues concerning the LSN. LSNARP comments will be addressed directly by the LSN Administrator. Copies of the functional requirements can be obtained from Dan Graser, LSN Administrator, U.S. Nuclear Regulatory Commission, Washington D.C. 20555–0001 or by email at *DJG2@nrc.gov.*

1. Comments on the Proposed LSN Design Standards

There were a number of general comments on the proposed design standards. Nye County, Nevada, the host county and situs jurisdiction for the potential high-level nuclear waste repository at Yucca Mountain, agreed with the need for the NRC to establish certain minimum design standards for individual participant LSN websites to avoid confusion and promote confidence in the process and the integrity of documents and data. Furthermore, the County stated that the design standards ''will help us in ensuring that our site will meet the required standards.'' However, the County's support for the design standards is conditioned on the Commission's stated intent to provide flexibility for a participant to deviate from any guidance developed by the LSN Administrator regarding the standards to take into account individual needs and differences, at least so long as the fundamental design requirements are met. In response to the County's concern, the Commission re-affirms its willingness to provide this type of flexibility. However, the Commission notes that the reference in the Supplementary Information to ''flexibility'' was made in the context of any guidance developed to implement the design standards. Regarding the standards themselves, the proposed rule would give the LSN Administrator the authority to allow variances from the standards to accommodate changes in technology or problems identified during initial operational testing of the individual participant LSN websites or the central LSN site. This authority has been carried forward into the final rule at § 2.1011(c)(6).

The Nuclear Energy Institute (NEI) noted that the proposed amendments represented a valuable tool for use in the repository licensing process and endorsed NRC's selection of the design standards. However, NEI also stated that guidance on implementation of the standards will be necessary. In response, the Commission notes that this guidance will be developed by the LSN Administrator.

DOE also was highly supportive of the proposed use of new information management technologies to make information available to interested

parties. DOE stated its intent to use and continue to use web-based technology to make its publications and supporting documents promptly available. DOE also recommended clarifying the term ''participant website'' to read ''participant LSN website,'' because a participant may have websites that are not related to the LSN. The Commission agrees that this is a necessary clarification and will use the recommended term through out the rule. DOE also recommends revising the term ''LSN site'', which refers to the LSN Administrator's portal site, to ''central LSN site''. The Commission agrees. The Commission also notes that the term ''LSN'' refers to the totality of the ''central LSN site'' and the various participant LSN websites.

The following comments were submitted on the individual design standards:

Section 2.1011(b)(2)(i). The participants must make textual (or, where non-text, image) versions of their documents available on a web-accessible server. Web indexing software (also known as a robot, a spider, or a crawler) must be able to canvass data files and server log files on the participant server.

Several comments were received on this standard. Some of these comments raised general issues concerning the basic document submission requirements of the LSN rule regarding ''textual'' material and ''images,'' rather than specific issues about the design standard itself. To ensure that these basic requirements are fully understood, the Commission believes it would be helpful to restate those requirements at this point. To provide full text search capability for relevant documents, § 2.1003(a)(1) of the current regulations requires NRC, DOE, potential parties, parties, and interested governmental participants to provide an ''electronic *file*'' (emphasis added) for all documentary material. For ''graphic-oriented'' documentary material, an ''electronic *image*'' (emphasis added) must be provided under § 2.1003(a)(2) in lieu of the text file. Graphic-oriented material consists of such items as raw data, field notes, maps, and photographs. Any text that is embedded within this type of documentary material does not need to be separately entered in searchable full text, i.e., as an ''electronic file.'' Graphic-oriented material will be retrievable from the bibliographic header material submitted by the participant. The Commission has revised § 2.1003(a)(2) to clarify that a bibliographic header is required for graphic-oriented documentary material.

DOE originally commented that proposed § 2.1011(b)(2)(i) should be revised to state that ''[t]he participants shall make textual and/or image versions of their documents available * * *'' This suggestion was based on the rationale that DOE has images of all documents but not the full text for any page in the document that was marked ''image only.'' In addition, ''some participants may have native files (Word or Word Perfect), so they may not have images of textual documents. Requiring absolutely one or the other would be a problem if interpreted literally.'' As noted, the current regulations require an electronic file for text documentary material and an electronic image for ''graphic-oriented'' documentary material. Therefore, the option of providing images only for textual material would be contrary to the Commission's requirements and to the objective of providing full text search capability. In comments submitted by DOE as a supplement to its initial comments, DOE clarified that it now has a clearer understanding of when an electronic image is to be provided (consistent with the Commission's explanation). However, DOE also stated its intent to provide online electronic images, as well as electronic ''files,'' of all its documents, not just for ''graphic-oriented'' documentary material. The Commission has no objection to this enhancement but emphasizes that it is not a requirement under the Commission's regulations.

Both DOE and NEI commented on some explanatory material in the Supplementary Information to the proposed rule on the requirements of § 2.1011(b)(2)(i). In the Supplementary Information (see 65 FR 50939), the Commission stated that this proposed standard does not affect the ability of parties or potential parties to correct or revise documents already made available on their websites, as long as:

(1) A corrected or updated document is noted as superseding a previously provided document;

(2) The previous version is not removed; and

(3) Other parties or potential parties are notified of the change.

DOE recommended deletion of this notice requirement, or at least clarification that it is acceptable to post any changes in a ''notice'' section of the participant's LSN website, because DOE will not have the ability to know all potential parties in order to notify them of changes. Likewise, NEI commented that this requirement needs clarification in terms of how it will be accomplished: ''Will there be a central way of notifying the other parties? Will participants know whom all of the participating parties are? * * * should each participant be responsible for assuring that it is using the latest information from other participants sites?''

Although not cited in the Supplementary Information, the statements of concern are based on § 2.1004 of the current regulations which provides for amendments or additions to documents. In view of the DOE and NEI comments, the Commission is providing the following explanation of the process for amending or adding documents that should alleviate the commentors' concerns. This provision, as explained in the Supplementary Information to the original rulemaking on the Licensing Support System (54 FR 14935; April 14, 1989), was to accomplish two objectives. The first was to address the correction of any errors discovered in the previous entry of a document. In these cases, the incorrect document would remain on the system with its own bibliographic header, and the corrected version of the document would be entered as a separate document with its own bibliographic header. The bibliographic headers for each document would include references to the other document. The second objective was to provide for the entry of updated pages to a document that was already on the system but was not being issued as a new, revised ''stand-alone'' document. In this case, the updated pages must be entered as a separate document with a separate bibliographic header. The bibliographic header of the original document and the bibliographic header of the updated pages must reference the other document. In the case of revisions that are new ''stand-alone'' revisions (e.g., a ''Rev. 1'' document), the revised document is entered as a separate document with its own bibliographic header that notes that it is a revision of another document that is on the system. There is no need to amend the header of the original document to indicate the existence of the new ''stand-alone'' revision because it is anticipated that the revision will be found through the routine full text search process. With any of these changes, the participant is not required to notify all of the other parties or potential parties individually. Rather, as suggested by DOE, notice may be posted on the participant's LSN website if that site is accessible; however, at a minimum the participant must notify the LSN Administrator, and the central LSN site will notify users of the updated information through a notice on the central LSN site's

webpage. The notice on the central LSN site will contain listings of changes, if any, to each participant's collection, identified by LSN accession number, with a description of what the change was, the date of the change, and why it was necessary.

Section 2.1011(b)(2)(ii). Participants would be required to make structured data available in the context of (or, under the control of) an accessible SQL (Standard Query Language)-compliant database management system (DBMS). Alternatively, the structured data may be made available in a standard database readable (e.g., comma delimited) file.

DOE recommends that the Commission explain the function of a ''comma delimited'' file. The Commission agrees and has revised the corresponding section of the Supplementary Information to explain that a ''comma delimited file'' or a ''comma separated value (.csv) file'' are ways to identify where the column values for each row in a particular data file begin and end so that it can be conveyed as input to another table-oriented application such as a database or spreadsheet application.

To ensure that this standard is clear, the Commission has revised this standard to substitute the term ''bibliographic header'' for the term ''structured data.'' The revised standard will read ''Participants would be required to make bibliographic data available in the context of (or under the control of) an accessible SQL (Standard Query Language)-compliant database management system (DBMS). Alternatively, the structured data containing the bibliographic header information may be made available in a standard database readable (e.g., XML (Extensible Markup Language *http://www.w3.org/xml/*), comma delimited, or comma separated value (.csv) file.

Section 2.1011(b)(2)(iii). This section would require that textual material be formatted to comply with the US.ISO_8859–1 character set and be in one of the following acceptable formats: native word processing (Word, WordPerfect), PDF (Portable Document Format) Normal, or HTML (Hypertext Markup Language).

DOE initially recommended inserting ''plain text'' in front of ''native word'' when discussing the acceptable text format. Upon further reflection, DOE clarified that it was recommending the insertion of ''ASCII'' rather than ''plain text.'' The Commission agrees and the standard has been revised to read ''textual material be formatted to comply with the ISO/IEC 8859–1 character set and be in one of the following acceptable formats: ASCII, native word processing (Word, WordPerfect), PDF Normal, or HTML.'' Note that the Commission has substituted ''ISO/IEC'' as the updated reference for this standard rather than ''US.ISO''.

Section 2.1011(b)(2)(iv). This section would require that image files be formatted as TIFF (Tag Image File Format) CCITT G4 for bi-tonal images or PNG (Portable Network Graphics) per [http://www.w3.org/TR/REC-png-multi.html]) format for grey-scale or color images, or PDF (Portable Document Format—Image). TIFF images are to be stored at 300 dpi (dots per inch), grey scale images at 150 dpi with eight bits of tonal depth, and color images at 150 dpi with 24 bits of color depth. Images found on participant machines will be stored as single image-per-page to facilitate retrieval of no more than a single page, or alternatively, images may be stored in a page-per-document format if software is incorporated in the web server that allows single-page representation and delivery.

DOE recommended that the Commission modify the proposed rule as follows (changes underlined): ''TIFF images will be stored at 300 dpi (dots per inch) or greater, gray scale images at 150 dpi or greater with eight bits of tonal depth, and color images at 150 dpi or greater with 24 bits of color depth.'' This would, in effect, establish minimum standards but allow the participants to incorporate features beyond the minimum standards. The Commission agrees with these changes and has revised the final rule accordingly.

DOE also noted that image formats can be used for textual material as well as for ''non textual document materials'' and recommended that the broader phrase ''document materials'' be substituted for the phrase ''non textual document materials.'' As noted previously, the current rule only requires an electronic image for ''graphic-oriented'' documentary material. However, nothing precludes a participant, as in fact DOE has indicated, from making its TIFF images available in addition to the searchable text file; however, a TIFF is not acceptable in lieu of a searchable text file.

In addition, DOE commented that the phrase ''alternatively, images may be stored in a page-per-document format if software is incorporated in the web server that allows single-page representation and delivery'' is inconsistent with the preceding phrase in the sentence that ''images be stored as single image-per-page to facilitate retrieval of no more than a single page.'' DOE recommends that the second phrase be revised to read ''alternatively, images may be stored in an image-per-document format if software is incorporated in the webserver that allows image-per-page representation and delivery.'' The Commission agrees that this correction should be made.

NEI questioned whether the standard of storing images on participant servers as single-image-per-page means that all multi-page documents need to be broken up into individual documents by page with a tracking number. If so, NEI believes this would be unduly burdensome.

In response, the Commission notes that the images in question are only for non-textual documentary information, such as maps, presentation slides/overheads, etc., so the following discussion does not apply to every textual document a participant may make available. In addition, TIFF images may be stored as a single image in a single file or with multiple images enveloped into a single file. Software utility programs are available to either select a group of single image files and wrap them into an envelope, or conversely, to take an existing envelope, open it, and pull out individual page images. Additionally, participants may use document management software that stores in multi-image format but is able to deliver single page images on request. The Commission would encourage the use of this type of software. The Commission's concern with the ability to select single image files of a page is that this capability is necessary to avoid the time and expense of a participant having to send a large number of images simply to deliver an image of one particular page. For example, consider the case of a participant searching a text file and finding a desired chart on page 237 of a 500 page document. All the user needs is one page. If the participant ''owner'' of that document has to send the user the entire multi-page TIFF envelope through a 14.4 bps user modem, that image file will take a substantial amount of time to load. Also, if the user is paying a long-distance remote connection charge, it will be very expensive as well as time consuming. The Commission would like to avoid imposing unnecessary burdens on the general public or on participants who do not have current state-of-technology machines and bandwidth.

The LSN Administrator, in concert with the LSNARP, will continue to examine the most effective way to resolve this issue and accommodate

participants' existing systems while ensuring that image file delivery is efficient and effective. However, for the time being, the Commission is retaining the proposed standard in the final rule. The Commission is revising this standard to clarify that in addition to TIFF images, it also applies to PDF (Portable Document Format) and PNG (Portable Network Graphics) images.

Section 2.1011 (b)(2)(v): This section would require that the parties programmatically link the bibliographic header record with the text or image file it represents. Each participant's system must afford the LSN software enough information to allow a text or image file to be identified to the bibliographic data which describes it.

NEI requested the Commission to provide an actual example of this header with the final rulemaking. The LSN Administrator has included an example of header field structure, with descriptions, in the March 2001 release of the Functional Requirements.

DOE recommended that the Commission adopt the following language (changes underlined): ''The participants shall programmatically link the bibliographic header record with the text *and/*or image file*s* it represents. The bibliographic header record must contain fielded data identifying its associated objects (text and/or image) file name*s* and directory location*s*.''

The Commission reiterates its previous statement that online availability of a bibliographic header and its associated electronic image are only required for ''graphic-oriented'' documentary material. In addition, the Commission is concerned that under the DOE approach, there could be multiple text and/or image files all associated with a single document and using a single bibliographic header, but logically stored under a number of file names and in multiple directory locations. Having multiple files with the same unique identifier assigned via the bibliographic header would not be acceptable. There may well be both an image and a text file associated with a given document but in those cases, there is usually an underlying Electronic Document Management System (EDMS) that controls the linkage between those associated files. The Commission believes that requiring the file name and directory locations to be placed in a bibliographic header field, as the only technically acceptable approach, restricts flexibility of the participants in designing their websites and is therefore easing that constraint; nonetheless, it is retaining the requirement that either a hyperlink in the header file to the web published document (preferably) or some other programmatic mechanism must be provided by the participants' software, procedures, or system configuration to link headers with text or image files.

Section 2.1011(b)(2)(vi). To facilitate data exchange, paragraph (b)(2)(vi) would require that participants adhere to hardware and software standards, including the following:

(A) Network access must be HTTP/1.1 [http://www.faqs.org/rfcs/rfc2068.html] over TCP (Transmission Control Protocol, [http://www.faqs.org/rfcs/rfc793.html]) over IP (Internet Protocol, [http://www.faqs.org/rfcs/rfc791.html]);

(B) Associating server names with IP addresses must follow the DNS (Domain Name System), [http://www.faqs.org/rfcs/rfc1034.html] and [http://www.faqs.org/rfcs/rfc1035.html];

(C) Web page construction must be HTML version 4.0 [http://www.w3.org/TR/REC-html40/];

(D) Electronic mail (e-mail) exchange between e-mail servers must be SMTP (Simple Mail Transport Protocol, [*http://www.faqs.org/rfcs/rfc821.html]);* and

(E) Format of an electronic mail message must be per [http://www.faqs.org/rfcs/rfc822.html] optionally extended by MIME (Multimedia Internet Mail Extensions) per [http://www.faqs.org/rfcs/rfc2045.html]) to accommodate multimedia e-mail.

No comments were received on this standard. However, the Commission has eliminated the reference in § 2.1011(b)(2)(vi)(C) to version 4.0 of HTML. To avoid having to change the rule text as new versions of HTML become available and acceptable, ''HTML'' alone is being specified. The LSN Administrator will notify participants of the acceptability of a particular version. In addition, § 2.1011(b)(2)(vi)(E) has been revised to note that ''MIME'' is Multipurpose Internet Media Mail Extensions rather than Multimedia Internet Mail Extensions.

2. Comments on the Role of the LSN Administrator

Nye County, Nevada, supported the added responsibilities being given to the LSN Administrator, particularly the authority to grant variances from the design standards and to issue guidance to participants on how best to meet those standards.

DOE commented on the authority of the LSN Administrator in proposed § 2.1011(c)(4) to identify any problems regarding the integrity of documentary material certified by a participant. In its initial comments, DOE stated that the word ''fidelity'' should be used rather than ''integrity'' because it believed that the intent of this provision is related to the documentary material being accurately represented in the LSN, not to the content or completeness of the documentary material. However, in its supplemental comments, DOE noted that ''[o]n further review, the DOE has a clearer understanding that the purpose of this section * * * is to * * * ensure that information provided to the LSN is not removed or modified. The DOE agrees that the LSNA should have the authority to ensure the integrity of the document set provided to the LSN.''

In its initial comments, DOE also noted that the Supplementary Information to the proposed rule stated that ''[a]ll disputes over the LSN Administrator's recommendations as to documentary material or data availability and integrity will be referred to the Pre-License Application Presiding Officer'' (See 65 FR 50941). However, according to DOE, proposed § 2.1011(c)(3) only refers to ''LSN availability'' and not to ''documentary material or data availability.'' Section 2.1003 of the current regulations uses the term ''availability'' in the context of the obligation of participants to identify and make available documentary material. Thus ''availability'' not only refers to the functioning of a participant website but also to whether the requisite material has been made available. The Commission notes that proposed § 2.1011(c)(3), although referring to ''LSN availability,'' also includes references to ''the availability of individual participant's data.'' Nevertheless, the Commission has revised § 2.1011(c)(3) to be more explicit on the nature of ''LSN availability.''

3. Comments on the Regulatory Analysis and the Design of the Central LSN Site

NEI commented on a portion of the Regulatory Analysis in which the NRC states that the recommended design needs to be ''based on a proven technical solution that has been successfully implemented.'' NEI requested that examples of such implementation should be provided. Examples of successful portal implementations for document management applications were provided at the February 23, 2000, LSN Advisory Review Panel meeting, as well as in documentation that was provided at that meeting. They included: *http://tis.eh.doe.gov/portal/home.htm; http://www.osti.gov/EnergyFiles/* and *http://igm.nlm.nih.gov/*. In addition, website locations (URLs) were included in the NRC's Business Case Analysis for the LSN, which is available via the NRC website in ADAMS at accession number

ML003722758 or from the LSN Administrator. Contact Dan Graser, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–7401, email djg2@nrc.gov.

DOE commented that the discussion for LSN design Alternative 3 should be revised, otherwise it ''could be interpreted to mean that the participant sites should be able to function independently to serve the documents to the public if the LSN site is unavailable.'' The narrative that DOE was referring to stated that participant servers' versions of the document would serve as backup copies should the LSN site become inoperative (see 65 FR 50943). DOE recommended that the language be revised to read ''participants servers'' versions of the documents serve as backup copies by being available to the LSN Administrator to facilitate recovery of the central LSN site should the central LSN site become inoperative.'' The Commission does not agree with this recommendation. The referenced design does not levy a requirement on participant servers for search and retrieval software capabilities to be made available. However, if participants elect to have search and retrieval capabilities at their websites, those capabilities could, indeed, be used in lieu of the LSN interface should the participants choose to make their external collections accessible to others besides the LSN crawler software. In both cases, the documents maintained by the participants as the source collection, whether on a server or on a transfer tape, could serve as the backup copy of the document.

NEI asked several questions regarding the portal architecture referred to in the Regulatory Analysis: ''Has NRC made specific decisions with regard to the portal software (i.e.: Which one? Who makes it? What does it cost? Is it proprietary?, etc.) Does NRC intend to make such decisions in consultation with the LSNARP?''

NRC decisions on portal architecture were made in consultation with the LSNARP, as documented in the LSNARP meeting materials of October 13, 1999 and February 23, 2000. The decision on the specific products used was made based on government procurement practices used for competitive procurement to deliver an operational system meeting stated requirements. The suite of products proposed by the design contract awardee include: NT SQL Server (RDBMS); Autonomy Portal Software (text search); WhatsUpGold and WebTrends (remote monitoring). All products are subject to government approval for use in operational development contingent upon the outcome of a formal design review session. Additional information is available by contacting the LSN Administrator. Also *see* Section III *infra*, on the LSN Site Design.

4. Comments on the Timing of Participant Compliance

There were several comments on those aspects of the proposed rule relating to the timing of participant compliance, i.e., when is a participant required to make its documentary material available and when does a participant need to certify that it has done so. All of the comments recommended tying the date of participant compliance to the DOE license application rather than to the DOE site recommendation to the President as is currently required, and as was proposed in the proposed rule. Under § 2.1003(a) and § 2.1001 of the current regulations, DOE and NRC are required to make their documentary material available beginning thirty days after DOE's submission of its site recommendation to the President; other participants no later than thirty days after the date that the repository site selection decision becomes final after review by Congress. In addition, § 2.1009 of the current regulations requires each potential party, interested governmental participant, or party to certify to the Pre-License Application Presiding Officer that the documentary material specified in § 2.1003 has been identified and made electronically available. However, the current regulations do not specify when the initial certification must be made. Although the Commission did not propose a change to the § 2.1003(a) requirement on when documentary material must be made available, the Commission had proposed a revision to § 2.1009 to clarify that the initial participant certification of compliance (''initial certification'') must be made at the time that each participant's documentary material must be made available under § 2.1003 of the rule.

The State of Nevada noted that the LSN is not related to the DOE site recommendation. Therefore, the date of availability of documentary material, and the accompanying certification, should not be tied to it. Rather, it should be tied to the DOE license application. In addition, Nevada pointed out that there is a good possibility that significant new or revised information will be developed by DOE during the period between the submission of the site recommendation and the license application. Therefore, it would be more efficient to delay certification until a time that would include the initial capture of this information. This could reduce the need for DOE and others to capture documents that might be ''obsolete, invalid, or irrelevant to the license application review and hearing.'' Therefore, Nevada recommended that certification be tied to some fixed period of time before the license application (e.g., six months). According to Nevada, this would ease the burden of compliance for all known and potential parties, eliminate the possibility of expending resources on unnecessary review of documents that might be superseded by the time of license application, and provide the LSN Administrator and his staff additional time to ensure that the system is properly designed and implemented using the most up-to-date technology available. Finally, Nevada recommended that the date for NRC compliance be set at the same time as DOE compliance and that all other participants must comply after DOE and NRC compliance (e.g., sixty or ninety days later).

NEI also disagreed with the Commission's proposed revisions relative to certification, and by implication, the date of initial availability of documentary material. Similar to the Nevada comments, NEI noted that the purpose of the LSN is to facilitate review of the DOE license application, not the DOE Site Recommendation. NEI recommended that the timing of initial certification for DOE be specified as ''no later than six months in advance of the DOE license application.'' Furthermore, NEI asserted that this time period would be ''consistent with the original compliance expectation established for the LSS in 1989.'' NEI recommended that NRC compliance be set at the same time as DOE compliance, and for others after DOE and NRC compliance. In summary, NEI stated that ''[o]ther participants would also not be encumbered to comply before compliance would be needed. This would make the network less likely to be cluttered with irrelevant information if DOE were to need to make adjustments to its repository design for licensing as a result of comments received during or conditions placed upon it by the site recommendation process. It would also assure that participants do not confuse the site recommendation with a licensing action.''

DOE submitted comments similar to those of Nevada and NEI on this issue. While DOE stated its support for early access to information, DOE believed that

there is a better way to facilitate focused contentions for the licensing proceeding and to ensure an efficient licensing process than tying DOE's certification of its documentary material to the Site Recommendation. DOE recommended that the initial certification of compliance be linked to its submission of the license application. Furthermore, DOE noted that it is ''committed to ensuring that interested members of the public have a full six months in advance of its submission of the license application to review the Department's documentary material.''

DOE's rationale for its recommendation was threefold. First, its recommendation would link the initial certification to the License Application. According to DOE, this is consistent with the basic purpose of the LSN, which is to support the NRC's licensing process rather than the DOE's Site Recommendation process. Second, if certification were tied to the Site Recommendation, as it is in the proposed rule, it would be ''virtually impossible'' to predict how much time would be available for review of the documentary material before the license application is submitted. In contrast, tying the certification to the license application would ensure a defined period of time for review. In addition, DOE noted that it may wish to adjust or otherwise modify its license application in response to comments resulting from the Presidential or Congressional review of the site recommendation or to incorporate the results of additional scientific work that will likely take place during this period. Third, the approach will provide the necessary and appropriate flexibility for DOE to process the documentary material that will be required to be entered into the LSN, and to make it more likely that the material entered will be more fully developed and current. Accordingly, DOE recommended revising various provisions in the rule to require that the availability of documentary material, and the accompanying certification, should occur no later than six months before DOE's submission of the license application. In no event should the Commission receive the license application before six months from when DOE actually made the certification. DOE's recommendation would have NRC and other participant document availability and certification occur sixty days after DOE's certification.

In response to these comments, the Commission agrees that a balance needs to be drawn between the need to provide an adequate amount of time for participants to review the documentary material in advance of the license application and the need to be as efficient as practicable in providing this information. This latter need includes avoiding the unnecessary expense and time to DOE and other participants that may result from making documentary material available before there is some certainty that a license application will become a reality, as well as avoiding the unnecessary expense and time that may result from the provision and review of a significant number of documents that may later become irrelevant or obsolete. In terms of the consideration of an adequate amount of time for participants to review the documentary material, the Commission identified early participant access to the LSN documentary material as a desirable objective and this continues to be an important component of efforts to meet the mandated three-year timetable for conducting the NRC's licensing review, including any adjudicatory proceeding, regarding the DOE application because of the system's capacity to provide early, equitable document discovery and contention formulation for the participants. The NRC and other participants have already made substantial financial and staff resource commitments to have their document collections available, as well as the LSN website ready for the 2001 LSN operational date which was based on DOE's announced schedule. These commitments were based on the requirements for document text availability that have been a regulatory requirement since 1989.

With these considerations in mind, and before setting forth its approach on this issue, in the final rule, the Commission addresses two of the several points made by the commentors. First, in light of the many statements on ''tying'' the certification to the DOE site recommendation, the Commission notes that its initial selection of the submission of the site recommendation as the point for DOE and NRC to make their documentary material available was to pick a specific event to trigger the document availability requirements that would allow sufficient time for participants to review the material before DOE submitted the license application. The time period provided in the Commission's current regulations for the review of documentary material is based on the DOE site recommendation to the President because the approximately eight months of time between that event and the date specified for DOE to submit the license application under the then extant DOE schedule for the repository, was viewed by the Commission as an appropriate amount of time for pre-application review of pertinent documents. By so providing, the Commission did not intend to imply that the focus of the LSN was the review of the site recommendation. Second, as noted by several commentors, the original NRC rule on the ''Licensing Support System'' or ''LSS'' required DOE certification that it had complied with the document availability requirements no less than six months before DOE submitted the license application.

The Commission agrees that tying availability and certification to the date DOE submits (tenders) the license application is a relatively simple and straightforward approach to this issue. The Commission does not entirely agree with the comments made by Nevada, NEI, and DOE on the need to eliminate the expense and time associated with making documents available when the certainty of an actual repository license application may be speculative. The NRC would not be acting prudently if it did not begin serious preparations for the review of a possible DOE license application. Thus substantial staff and financial resources have already been committed in preparing to process such an application. The Commission likewise believes that the parties and potential parties need to prepare for a possible proceeding. The Commission is mindful of the fact that there may be revisions to the DOE site design resulting from the Presidential and Congressional review process or new scientific information gathered during that period before any DOE application. However, the Commission is also aware that the development of the DOE license application and supporting materials is an ongoing process that, given the statutory schedules and the potential complexity and scope of those materials, requires that some effort be expended before it is finally known whether an application will be received. The Commission believes that providing for a six-month period of DOE documentary material availability before DOE submits (tenders) the license application reflects an appropriate amount of pre-license application review time for participants to prepare for the licensing proceeding. The Commission thus has established the following framework on this issue in the final rule:

- DOE is required to make its documentary material available, and to provide an initial certification of compliance, no later than six months before DOE submits (tenders) the license application;

• NRC is required to make its documentary material available, and to provide an initial certification of compliance, thirty days after the DOE certification. Although the current regulations require NRC compliance at the same time as DOE compliance, under the ''six months before DOE submits the license application'' approach in the final rule, the NRC, like other participants, will have no certainty as to when the DOE certification will be made until it actually happens. Therefore, to eliminate unnecessary coordination effort, the NRC will be permitted to certify thirty days after the DOE certification. As explained in the next paragraph, other participants will have ninety days after the DOE certification before being required to make their documents available. Due to the fact that the NRC will have a substantial amount of documentary material, the Commission wants to ensure that the NRC material will be available as soon as practicable (i.e., thirty days) after the DOE certification;

• The other participants will be required to make their documentary material available, and to provide an initial certification of compliance, ninety days after the DOE certification;

• NRC will not accept the DOE license application for docketing until at least six months have passed since the DOE certification of compliance. Regarding this requirement, the Commission notes that the pendency of a dispute contesting some aspect of the DOE initial certification would not be a reason to delay the NRC acceptance of the DOE license application.

Delaying docketing until the requisite six-months have passed since DOE's certification of the availability of the DOE documents will mitigate the need, as described in the **SUPPLEMENTARY INFORMATION** for the proposed rule, for the Commission to report to the Secretary of Energy and the Congress, pursuant to section 114(e)(2) of the Nuclear Waste Policy Act, that it could not meet the three-year review required under section 114(d) of the Act because DOE was unable to comply with the LSN rule. As noted in Footnote 1, the Commission interprets the requirement in Section 114(d) of the NWPA that the Commission ''shall issue a final decision approving or disapproving the issuance of a construction authorization not later than three years after the date of submission'' of the license application, as three years from the docketing of the license application.[2]

The Commission is also deleting from the final rule the provision in proposed § 2.1009(c) that would have required DOE to report to the Pre-License Application Presiding Officer in the event that it could not make the initial certification when required. Under the framework in the proposed rule, there was a possibility that a delay in the initial certification by DOE could substantially affect the time provided for advance review of the documentary material. Reporting to the Presiding Officer on the status of the initial certification would have been necessary and appropriate under such circumstances. In addition, under the framework in the final rule, if DOE fails to make its initial certification pursuant to Section 2.1009(b) in a timely manner, at least six months prior to tendering its application, the Commission will not docket the application until six months after initial certification. Not permitting earlier docketing will provide the six months of access to DOE documents that was intended under the provision of Section 2.1009(b). Finally, the Commission is eliminating the provision in § 2.1009(b) of the current regulations that requires the responsible official for a participant to update at twelve month intervals the intial certification that the documentary material specified in § 2.1003 has been made available. Based on the framework in the final rule, as well as the repository schedule in the NWPA, it is unlikely that there will be a need for a twelve month update.

The Commission believes that it would be useful to emphasize two points regarding the availability of documentary material:

(1) What constitutes ''documentary material?''; and

(2) When are documents created after the initial certification of compliance required to be made available?

The definition of documentary material in the current regulations includes three separate classes of material, and is guided by the Topical Guidelines in NRC Regulatory Guide 3.69. The three classes of documentary material are:

(1) Any information on which a party, potential party, or interested governmental participant intends to rely and/or cite in support of its position in the HLW proceeding;

(2) Any information that is known to, and in the possession of, or developed by the party that is relevant to, but does not support, that information noted in item 1 or that party's position; and

(3) All reports and studies prepared by or on behalf of the potential party, interested governmental participant, or party, including all related ''circulated drafts'' relevant to the license application and the issues set forth in the Topical Guidelines regardless of whether they will be relied upon or cited by a party.

Material in any of the three classes must be made available in the LSN. The three classes encompass a broad scope of material, as appropriate for an electronic information management system that was intended to provide document discovery rights similar to that normally available in NRC licensing proceedings.[3]

Documentary material created after the initial certification of compliance is expected to be made available reasonably contemporaneous with its creation, rather than stored for entry as a group at some point during the remaining time before DOE submits the license application. This concept has been part of the regulatory framework since the original LSS rule was issued in 1989 (April 14, 1989; 54 FR 14925 at 14934) and is based on the need to provide participants with early and useful access to documentary material before DOE submits the license application. As DOE noted in its comments on the proposed rule, new information will continue to be produced during the period before it submits the license application. Participants must have timely access to this material in order to prepare for the licensing proceeding.[4]

[2] The Commission's expectation is that DOE will comply with both the Commission's requirements on initial certification and the requirement in Section 114(b) of the NWPA that DOE submit (tender) the license application not later than ninety days after the date on which the recommendation of site designation is effective. However, the Commission would also note that this does not mean that the Commission has any role in ensuring DOE compliance with the Section 114(b) requirement.

[3] As specified in § 2.1003, DOE and the other participants remain responsible for incorporating all their ''documentary material'' that meets the requirements of that definition in § 2.1001, including material that is relevant to, but does not support, DOE positions in the high-level waste repository proceeding, and any reports or studies relevant to the license application or the Topical Guideline issues in Regulatory Guide 3.69, regardless of whether they are cited and/or relied upon by a party. Because the LSN will be populated during the pre-application phase of the proceeding before there are any party ''contentions'' defining the matters in controversy, whether this section 2.1001 ''documentary material'' is ''relevant'' must necessarily be defined in terms of whether it (1) has any possible bearing on a party's supporting information or a party's position for which the party intends to provide supporting information; or (2) is a report or study that has a bearing on the license application any of the Regulatory Guide 3.69 Topical Guideline issues. *See Commonwealth Edison Co.* (Zion Station, Units 1 and 2), ALAB–196, 7 AEC 457, 462 (1974).

[4] The adopted change in the compliance certification dates creates the possibility that there could be a significant period between the time the

III. The LSN Site Design

As was described in the proposed rule, the Commission intends to implement a design for the ''central LSN site'' that will ensure that the totality of the individual websites operate in an ''efficient and effective'' manner. The final design standards for individual participant LSN websites are fully consistent and supportive of the design for the central LSN site. To evaluate the alternative designs for the central LSN site, the Technical Working Group of the LSNARP identified and characterized five design alternatives for review by the full Advisory Panel. These alternatives were then reviewed by the full LSNARP. The LSN Administrator then evaluated the recommendations of the Advisory Review Panel in preparing a Capital Planning and Investment Control (CPIC) Business Case Analysis for review by the NRC Information Technology Business Council. Two of the alternatives identified by the Technical Working Group, Alternatives 2 and 4, were not included in this analysis because no members of the LSNARP supported these alternatives. The CPIC and the recommendations of the Information Technology Business Council were then reviewed by the former NRC Executive Council.

In the Business Case Analysis, the LSN Administrator recommended the selection of the alternative originally identified as ''Alternative 3'' (Design Option 2 in the Regulatory Analysis) in the report of the LSNARP Technical Working Group. The Administrator's recommendation was supported by the Information Technology Business Council and the former NRC Executive Council. A summary comparison of the alternative designs is included in the Regulatory Analysis for this rule. The entire Business Case Analysis (with budgetary data redacted) is available via the NRC website in ADAMS at accession number ML003722758 or, from the LSN Administrator as indicated above in this notice.

The recommended design is an LSN home page/website based on portal software technology. Web portals include hardware and software capable of: Indexing all bibliographic data and text documents on a web server; establishing a baseline; and then routinely revisiting those servers to compare new findings against the previous baseline. The single LSN web page standardizes search and retrieval across all collections by providing a common user search interface, rather than requiring users to learn the search and retrieval commands from each different site.

Each participant website acts as a file server to deliver the text documents responsive to a query found through a search at the LSN web site. The LSN identifies the contents of each server and stores this information in its own database, which is then used to respond to searches. Users are presented lists of candidate documents that are responsive to their search. When the user wants to view a document, the LSN directs the participant server to deliver the file back to the user.

In addition to the search and retrieval, the LSN keeps track of how data was stored in the participant servers. Software assigns a unique identifying number to each file found on a server. The LSN software uses its baseline information about documents to identify when the participants have updated data on their servers. It also gathers information about the performance of the participants' servers including availability, number of text or image files delivered, and their response times.

Finally, the central LSN site will be used to post announcements about the overall LSN program and items of interest (hours of availability, scheduled outages, etc.) for the participant sites.

The Commission believes that the recommended design represents the least cost to both NRC and the individual parties to the HLW licensing proceeding, while at the same time providing high value to the users. Because it is based on a proven technical solution that has been successfully implemented, the recommended design will provide a document discovery system that will facilitate the NRC's ability to comply with the schedule for decision on the repository construction authorization; provide an electronic environment that facilitates a thorough technical review of relevant documentary material; ensure equitable access to the information for the parties to the HLW licensing proceeding; ensure that document integrity has been maintained for the duration of the licensing proceeding; most consistently provide the information tools needed to organize and access large participant collections; feature adequately scaled and adaptable hardware and software; and include comprehensive security, backup, and recovery capabilities.

IV. The Final Rule

To clarify the scope of this rulemaking, the Commission emphasizes that the requirements in the final rule are solely directed at the participants' obligations to make documentary material available during the pre-license application phase and are not directly related to the procedures for use of the adjudicatory docket for the hearing on the DOE license application. Regarding the adjudicatory docket, the current regulations in § 2.1013(b) require that, absent good cause, all exhibits tendered during the hearing must have been made available to the parties in electronic form before the commencement of that portion of the hearing in which the exhibit will be offered. In addition, § 2.1013(c)(1) requires that all filings in the adjudicatory proceeding on the license application shall be transmitted electronically by the submitter according to established format requirements. Although care has been taken in the development of this final rule to not unnecessarily foreclose any format options for filings in the adjudicatory proceeding, the specific requirements for the format of these filings will be addressed in a separate rulemaking or order.

1. Design Standards

The successful implementation of a system to connect diverse collections of documents stored by the participants on a wide range of hardware and software platforms depends on the use of data structure and transfer standards and protocols. Adherence to these standards ensures usability and exchangeability to the users and verifiability of data integrity to the LSN Administrator. These design standards are generally accepted data structure and transfer protocols currently in use in the Internet environment and reflect a ''lowest common denominator'' for participant websites while allowing the participants the flexibility to select the specific technologies (hardware and software) for their websites. The Commission is implementing a design for the ''central LSN site'' that will ensure that the totality of the individual websites operate in an ''effective and efficient'' manner. This ''central LSN site'' design complements the capabilities of, and relies on compatibility with, the design standards for individual participant

LSN central site becomes operational and the dates upon which DOE and other potential parties must provide certifications that their existing section 2.1003 documentary material is accessible. The required certification dates notwithstanding, the Commission strongly recommends that all those who are parties or potential parties to the HLW repository proceeding make every effort to provide access to as much of their existing section 2.1003 documentary material as soon as possible after the LSN central site is operational. Providing such pre-certification access can only inure to the benefit of both the LSN central site's operator and users in terms of maximizing the LSN's efficiency and effectiveness.

LSN websites. A new paragraph (b)(2) is added to Section 2.1011 containing the following design standards:

(i) The participants must make textual (or, where non-text, image) versions of their documents available on a web-accessible server. The NRC's LSN web indexing software (also known as a robot, a spider, or a crawler) must be able to canvass data files and server log files on the participant server. This provision establishes a baseline of data and documents placed on participant systems and a means to revisit those servers routinely to identify any changes to documents. This revision is consistent with the Administrator's responsibility under 10 CFR 2.1011(c)(4) to resolve problems regarding the integrity of LSN documentary material. This revision does not affect the ability of parties or potential parties to correct or revise documents already made available on their websites. Changes to documents previously entered are permitted if:

(1) A corrected or updated document is noted as superseding a previously provided document;

(2) The previous version is not removed; and,

(3) Other parties or potential parties are notified of the change either on the participant's LSN website or on the central LSN site.

As noted previously, notice may be posted on the participant's LSN website, and if access to participant LSN websites is through the central LSN site portal, as now contemplated, the participant must notify the LSN Administrator, and the central LSN site will notify users of the updated information through a notice on the central LSN site's webpage. The notice on the central LSN site will contain listings of changes, if any, to each participant's collection, identified by LSN accession number, with a description of what the change was and why it was necessary.

(ii) The participants must make bibliographic header data available in an HTTP (Hypertext Transfer Protocol) accessible, ODBC (Open Database Connectivity) and SQL (Structured Query Language)-compliant (ANSI IX3.135–1992/ISO 9075–1992) database management system (DBMS). Alternatively, the structured data containing the bibilographic header may be made available in a standard database readable (e.g., XML (Extensible Markup Language *http://www.w3.org/xml/*), comma delimited, or comma separated value (.csv)) file.

These criteria provide acceptable electronic formats for parties to provide bibliographical information on a document or the full text of a document on their individual web pages in a form that can be searched by the central LSN web site. This amendment identifies multiple ways by which parties or potential parties can make a bibliographic header available for use by the LSN. ODBC and SQL-compliant identifies a broad range of widely used database products with proven data exchange capability. SQL is a standard interactive and programming language for accessing and updating a database. The option for providing readable files establishes a low system cost threshold for participants in that it does not require investment in a DBMS, yet still provides for data formatting so that import routines can be easily developed. XML is a flexible way to create common information formats and share both the format and the data on the world wide web, intranets, and elsewhere. A ''comma delimited'' file is a way to identify where a particular relational database file begins and ends. A ''comma delimited file'' or a ''comma separated value (.csv) file'' are ways to identify where the column values for each row in a particular data file begin and end so that it can be conveyed as input to another table-oriented application such as a database or spreadsheet application.

(iii) Textual material must be formatted to comply with the ISO/IEC 8859–1 character set and be in one of the following acceptable formats: ASCII, native word processing (Word, WordPerfect), PDF (Portable Document Format) Normal, or HTML. This revision simplifies data exchange by standardizing on the standard Latin alphabet. It also identifies a broad range of widely used text file formats (which the LSN participants can designate) for text documents that are viewable with current browser/viewer software and can be recognized by state-of-technology indexing software.

(iv) Image files must be formatted as TIFF (Tag Image File Format) CCITT G4 for bi-tonal images or PNG (Portable Network Graphics) per [*http://www.w3.org/TR/REC-png-multi.html*] format for grey-scale or color images, or PDF (Portable Document Format—Image). TIFF, PNG, or PDF images will be stored at 300 dpi (dots per inch) or greater, grey scale images at 150 dpi or greater with eight bits of tonal depth, and color images at 150 dpi or greater with 24 bits of color depth. Participants should store images on their servers as single image-per-page to facilitate retrieval of no more than a single page. Alternatively, images may be stored in an image-per-document format if software is incorporated in the web server that allows image-page representation and delivery. A ''Tag Image File Format'' or ''TIFF'' is a common format for exchanging faster (bitmapped) images between application programs. This revision establishes three standard formats, usable by the LSN, that parties or potential parties can use to make non-textual documentary materials viewable with current browser/viewer software. These standards all use predictable algorithms for compression and uncompression of files to help ensure compatibility and usability. Additionally, all these standard formats have attributes that can be used to verify that an image file has not been revised since initially being placed on a participant's server.

(v) The parties or potential parties must programmatically link, preferably via hyperlink or some other automated process, the bibliographic header record with the text or image file (or both if provided by the participant) it represents to provide for file delivery and display from participant machines via the LSN system. This revision establishes basic information management controls to clearly and systematically link the bibliographic record entry with the document it describes. Each participant's system must afford the LSN software enough information to allow a text or image file to be identified to the bibliographic data which describes it.

(vi) To facilitate data exchange, participants must follow hardware and software standards, including, but not limited to:

(1) Network access must be HTTP/1.1 [*http://www.faqs.org/rfcs/rfc2068.html*] over TCP (Transmission Control Protocol, [*http://www.faqs.org/rfcs/rfc793.html*]) over IP (Internet Protocol [*http://www.faqs.org/rfcs/rfc791.html*]);

(2) Associating server names with IP addresses must follow the DNS (Domain Name System), [*http://www.faqs.org/rfcs/rfc1034.html*] and [*http://www.faqs.org/rfcs/rfc1035.html*];

(3) Web page construction must be HTML [*http://www.w3.org/TR/REC-html40/*];

(4) Electronic mail (e-mail) exchange between e-mail servers must be SMTP (Simple Mail Transport Protocol, [*http://www.faqs.org/rfcs/rfc821.html*]; and

(5) Format of an electronic mail message must be per [*http://www.faqs.org/rfcs/rfc822.html*] optionally extended by MIME (Multipurpose Internet Mail Extensions) per [*http://www.faqs.org/rfcs/rfc2045.html*] to accommodate multipurpose e-mail.

This revision identifies standard data exchange protocols commonly used in

the Internet environment to help ensure data exchange and usability.

2. The Role of the LSN Administrator

The role of the LSN Administrator under the current regulations is to coordinate access to, and the functioning of, the LSN, as well as to coordinate the resolution of problems regarding the availability and integrity of documentary material and data. As a necessary supplement to the specification of the design standards set forth in this rule, the Commission believes that the LSN Administrator should have additional responsibilities. Section 2.1011(c)(6) of the final rule gives the LSN Administrator the responsibility to review all participant website designs to ensure that they meet the design standards and to allow variances from the design standards to accommodate changes in technology or problems identified during initial operability testing of the individual participant LSN websites or the ''central LSN site.'' Section 2.1011(c)(7) gives the Administrator the authority to develop and issue guidance for LSN participants on how best to incorporate the LSN standards in their system. Any disputes related to the Administrator's evaluation of participant compliance with the design standards would be referred to the Pre-License Application Presiding Officer under the authority of § 2.1010 of the current regulations.

Sections 2.1011(c)(3) and (c)(4) of the current regulations gives the Administrator the responsibility to ''coordinate the resolution of problems'' regarding ''LSN availability'' and the ''integrity of documentary material'', respectively. To be more explicit regarding the Administrator's responsibilities, the Commission is amending these sections to authorize the Administrator to identify problems, notify the participant(s) of the nature of these problems, and recommend a course of action to the participant(s) to resolve the problem concerning LSN availability (§ 2.1011(c)(3)), or the integrity of documentary material (§ 2.1011(c)(4)). The LSN Administrator will also report these problems and recommended resolutions to the Pre-License Application Presiding Officer provided for in § 2.1010 of the final rule. All disputes over the LSN Administrator's recommendations as to documentary material or data availability and integrity will be referred to the Pre-License Application Presiding Officer.

3. The Timing of Participant Compliance Determinations

Under § 2.1003(a) of the current regulations, DOE and NRC are required to make their documentary material available beginning thirty days after DOE's submission of its site recommendation to the President; other participants no later than thirty days after the date that the repository site selection decision becomes final after review by Congress. In addition, § 2.1009 of the current regulations requires each potential party, interested governmental participant, or party to certify to the Pre-License Application Presiding Officer that the documentary material specified in § 2.1003 has been identified and made electronically available. However, the current regulations do not specify when the initial certification must be made. Although the Commission did not propose a change to the § 2.1003(a) requirement on when documentary material must be made available, the Commission did propose a revision to § 2.1009 to clarify that the initial participant certification of compliance (''initial certification'') must be made at the time that each participant's documentary material is made available under § 2.1003.

Based on an evaluation of the comments submitted on this issue in response to the proposed rule, the Commission is adopting the following amendments to the documentary availability and certification requirements of the rule:

(1) Section 2.1003(a) is amended to require DOE to make its documentary material available at least six months before it submits (tenders) the license application for the HLW repository. NRC shall make its documentary material available thirty days after the DOE initial certification of compliance under § 2.1009. Each other potential party, interested governmental participant or party shall make its documentary material available ninety days after the DOE initial certification of compliance under § 2.1009.

(2) Section 2.1009 is amended to clarify that the initial participant certification of compliance (''initial certification'') must be made at the time that each participant's documentary material is made available under § 2.1003.

Section 2.1012(a) has been amended to specify that the Director of the NRC's Office of Nuclear Material Safety and Safeguards may determine that the license application is not acceptable for docketing until a period of six months has elapsed since the DOE initial certification under § 2.1009.

In addition, the Commission is adopting the following related amendments to the rule:

(1) In § 2.1001 the definition of ''Pre-License Application Phase'' has been revised to note that the pre-license application phase is the period of time before the license application for the HLW repository is docketed.

(2) Section 2.1003(a)(2) has been amended to clarify that a bibliographic header is required for graphic-oriented material.

(3) Section 2.1010(b) has been amended to specify that the Pre-License Application Presiding Officer may be designated at any point in time during the pre-license application phase that the Commission finds appropriate, but in any event no later than fifteen days after the date of the DOE initial certification under § 2.1009.

(4) The definition of ''Bibliographic Header'' in § 2.1001 has been revised to delete references to a ''full header.'' In addition, the definition of ''Full Header'' in § 2.1001 has been deleted. The ''full header'' concept was originally part of the implementation framework for the original LSS rule but no longer has any viability under the present framework.

(5) The reference in § 2.1003(a)(2)(xv) to ''paragraph (b)(1)'' has been revised to read ''in this paragraph''. There is no paragraph (b)(1) in § 2.1003.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. This final rule establishes basic design standards that participant LSN websites must use to participate in the LSN. The standards in the final rule are based on World Wide Web Consortium (W3) standards, and/or the International Standards Organization (ISO) standards and are not government-unique standards.

Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared.

Paperwork Reduction Act Statement

The final rule does not contain information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The following regulatory analysis identifies several alternatives (''regulatory options'') to the Commission's required design standards for the design of individual participant websites. It also provides information on the LSN Administrator's evaluation of alternatives for the ''LSN site'' (''design options'').

Regulatory Options. Option 1 would retain the status quo of the existing rule consisting of requirements for participants to provide their documentary material in electronic form. This material would be supplied on individual participant websites. No requirements would be established to ensure that the information on the participant websites was readily available to other participants in a timely manner. Option 2 would provide for the development of suggested design standards by the LSN Administrator in consultation with the LSNARP. Individual participants would be free to adopt or reject these suggested standards. Option 3 is reflected in the final rule. This Option establishes basic design standards for individual websites but also provides for flexibility in the implementation of the standards.

Regarding Option 1, the Commission believes that the role of the LSN for providing a document discovery system to minimize delay in the HLW licensing proceeding, as well as for facilitating the effective review and use of relevant licensing information by all parties, is too important not to provide contextual guidance to the parties and potential parties in the design of individual websites. Individual participant judgments on the costs and benefits of providing data without a contextual framework of what is necessary to provide for effective data availability may compromise effective design. Without this guidance, the funds that have been spent on the design and development of the LSN could be compromised by poor implementation. Option 2 would attempt to provide suggested standards through the LSN Administrator and the LSN Advisory Review Panel. Unfortunately, there is no assurance of consensus on the standards, or that any consensus standards would be followed even if they were developed. As with Option 1, the Commission believes that the role of the LSN in the HLW licensing proceeding is too important not to establish minimal standards to ensure effective operation. Therefore, the Commission has adopted Option 3 which is reflected in the final rule.

Central LSN Site Design Options. To evaluate the alternative designs for the ''LSN site'', the Technical Working Group of the LSNARP identified and characterized five design alternatives for review by the full Advisory Panel. These alternatives were then reviewed by the full LSNARP. Two of the alternatives that were identified by the Technical Working Group, Alternatives 2 and 4, were not included in this analysis because no members of the LSN Advisory Review Panel supported these alternatives. Therefore, the Commission ultimately considered three options for the design architecture of the central LSN site and its interaction with participant document collection websites: Design Option 1 (TWG Alternative 1); Design Option 2 (TWG Alternative 3); and Design Option 3 (TWG Alternative 5).

Design Option 1 is characterized by an LSN homepage/website that points end-users to the web accessible documentary collections of each of the participants. The LSN homepage/website adds no value to the inherent information management capabilities found at any of the participant sites. The ''central LSN site'' simply serves as a pointer to other home pages. This option provides no search and retrieval or file delivery processes to any user. The participant website provides the sole search and retrieval tools to access its text documents. Participants may use any software to provide text search and retrieval, and those packages may represent a wide range of capabilities from minimal to fully featured.

The recommended design, Design Option 2, is characterized by a central LSN homepage/website developed using portal software technology. Web portals represent a fully featured hardware and software environment capable of ''crawling'' participant documentary collection websites, characterizing (to the byte level) all structured and unstructured data located at that site, establishing a snapshot at defined points-in-time as baselines, and then routinely ''recrawling'' those sites and comparing new findings against the previous baseline. Portal software adds significant value to the inherent information management capabilities found at any of the participant sites. Each participant website acts as a file server to deliver to Internet users the text documents responsive to a query found through a search at the central LSN website.

Under a portal architecture, the LSN would organize and identify the contents of participant collections in its own underlying database environment for structured data and would index unstructured data located at a ''crawled'' location. The portal software uses these underlying databases to respond to search queries with lists of candidate documents that are responsive to a user's request. When the user seeks to retrieve the file, the portal software directs the request back to the original source (participant) collection server that directly delivers the file back to the user. Portal software provides a single user search interface rather than requiring users to learn the search and retrieval commands from each different site. Portal software also assigns a unique identifying number to each file regardless of file location.

Design Option 3 is identical to Design Option 2 except that (1) when the user seeks to retrieve the file, the portal software delivers the document to a user from the copy maintained on a very large storage unit that would be maintained by the LSN Administrator; and (2) the storage cache is provided with high-capacity bandwidth under the control of the Administrator.

The Commission believes that Design Option 1 is of low benefit in terms of delivering efficient or effective access to users and shifts the cost burden to individual participants. This Option creates a significant risk that system implementation and operation issues may result in disputes whose resolution could have a negative impact on the NRC's ability to meet its three-year schedule for making a decision on repository construction authorization. The Commission would also note that the LSNARP Technical Working Group did not believe that Design Option 1 provided the functionality necessary for the system to be effective.

Although Design Option 3 adds value over and above the design in Design Option 2, it has the highest cost of all alternatives. Design Option 3, while it offers more assurance of performance and document delivery, has initial costs to NRC almost double those of Design Option 2, which fulfills the same number of functional requirements as Design Option 3. Design Option 3 may

also present a potential difficulty for the LSN Administrator, who would be in a position of being accountable for the availability, accuracy, integrity, and custodial chain of participant materials.

The Commission believes that the recommended design represents the least cost to both NRC and the individual parties to the HLW licensing proceeding, while at the same time providing high value to the users. It is based on a proven technical solution that has been successfully implemented; it will provide a document discovery system that will facilitate the NRC's ability to comply with the schedule for decision on the repository construction authorization; it provides an electronic environment that facilitates a thorough technical review of relevant documentary material; it ensures equitable access to the information for the parties to the HLW licensing proceeding; and it ensures that document integrity is maintained for the duration of the licensing proceeding. Design Option 2 most consistently provides the information tools needed to organize and access large participant collections. It features adequately scaled and adaptable hardware and software and includes comprehensive security, backup, and recovery capabilities.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission has evaluated the impact of the final rule on small entities. The NRC has established standards for determining who qualifies as small entities (10 CFR 2.810). The Commission certifies that this final rule does not have a significant economic effect on a substantial number of small entities. The amendments modify the NRC's rules of practice and procedure regarding the HLW licensing proceeding. Participants will be required to make their documentary material available electronically on a website that complies with the basic design standards established in the final rule. Some of the participants affected by the final rule, for example, DOE, NRC, the State of Nevada, would not fall within the definition of ''small entity'' under the NRC's size standards. Other parties and potential parties may qualify as ''small entities'' under these size standards. However, the required standards reflect standard business practice for making material electronically available. In addition, the requirements provide flexibility to participants in how these standards are implemented. No comments were submitted on this issue in response to the proposed rule.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this final rule because these amendments would not include any provisions that require backfits as defined in 10 CFR Chapter I.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

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

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat.1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Sections 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.1001, the definition of ''Full header'' is removed and the definitions of ''Bibliographic header'' and ''Pre-license application phase'' are revised to read as follows:

§ 2.1001 Definitions.

Bibliographic header means the minimum series of descriptive fields that a potential party, interested governmental participant, or party must submit with a document or other material.

* * * * *

Pre-license application phase means the time period before the license application to receive and possess high-level radioactive waste at a geologic repository operations area is docketed under § 2.101(f)(3).

* * * * *

3. In § 2.1003, the introductory text of paragraphs (a) and (a)(2), and paragraph (a)(2)(xv) are revised to read as follows:

§ 2.1003 Availability of material.

(a) Subject to the exclusions in § 2.1005 and paragraphs (b) and (c) of this section, DOE shall make available, no later than six months in advance of submitting its license application to receive and possess high-level radioactive waste at a geologic repository operations area, the NRC shall make available no later than thirty days after the DOE certification of compliance under § 2.1009(b), and each other potential party, interested governmental participant or party shall make available no later than ninety days after the DOE certification of compliance under § 2.1009(b)—

* * * * *

(2) In electronic image format, subject to the claims of privilege in § 2.1006, graphic-oriented documentary material that includes raw data, computer runs, computer programs and codes, field notes, laboratory notes, maps, diagrams and photographs, which have been

printed, scripted, or hand written. Text embedded within these documents need not be separately entered in searchable full text. A bibliographic header must be provided for all graphic-oriented documentary material. Graphic-oriented documents may include—

* * * * *

(xv) Descriptive material related to the information identified in this paragraph.

* * * * *

4. In § 2.1009, paragraph (b) is revised to read as follows:

§ 2.1009 Procedures.

* * * * *

(b) The responsible official designated under paragraph (a)(1) of this section shall certify to the Pre-License Application Presiding Officer that the procedures specified in paragraph (a)(2) of this section have been implemented, and that to the best of his or her knowledge, the documentary material specified in § 2.1003 has been identified and made electronically available. The initial certification must be made at the time the participant is required to comply with § 2.1003. The responsible official for the DOE shall also update this certification at the time DOE submits the license application.

5. In § 2.1010, paragraph (a)(2) is revised to read as follows:

§ 2.1010 Pre-License Application Presiding Officer.

(a) * * *

(2) The Pre-License Application Presiding Officer shall be designated at such time during the pre-license application phase as the Commission finds it appropriate, but in any event no later than fifteen days after the DOE certification of initial compliance under § 2.1009(b).

* * * * *

6. In § 2.1011, paragraphs (b), (c)(3), and (c)(4) are revised and paragraphs (c)(6) and (c)(7) are added to read as follows:

§ 2.1011 Management of electronic information.

* * * * *

(b)(1) The NRC, DOE, parties, and potential parties participating in accordance with the provision of this subpart shall be responsible for obtaining the computer system necessary to comply with the requirements for electronic document production and service.

(2) The NRC, DOE, parties, and potential parties participating in accordance with the provision of this subpart shall comply with the following standards in the design of the computer systems necessary to comply with the requirements for electronic document production and service:

(i) The participants shall make textual (or, where non-text, image) versions of their documents available on a web accessible server which is able to be canvassed by web indexing software (i.e., a ''robot'', ''spider'', ''crawler'') and the participant system must make both data files and log files accessible to this software.

(ii) The participants shall make bibliographic header data available in an HTTP (Hypertext Transfer Protocol) accessible, ODBC (Open Database Connectivity) and SQL (Structured Query Language)-compliant (ANSI IX3.135–1992/ISO 9075–1992) database management system (DBMS). Alternatively, the structured data containing the bibliographic header may be made available in a standard database readable (e.g., XML (Extensible Markup Language *http://www.w3.org/xml/*), comma delimited, or comma separated value (.csv)) file.

(iii) Textual material must be formatted to comply with the ISO/IEC 8859–1 character set and be in one of the following acceptable formats: ASCII, native word processing (Word, WordPerfect), PDF Normal, or HTML.

(iv) Image files must be formatted as TIFF CCITT G4 for bi-tonal images or PNG (Portable Network Graphics) per [http://www.w3.org/TR/REC-png-multi.html]) format for grey-scale or color images, or PDF (Portable Document Format—Image). TIFF, PDF, or PNG images will be stored at 300 dpi (dots per inch) or greater, grey scale images at 150 dpi or greater with eight bits of tonal depth, and color images at 150 dpi or greater with 24 bits of color depth. Images found on participant machines will be stored as single image-per-page to facilitate retrieval of no more than a single page, or alternatively, images may be stored in an image-per-document format if software is incorporated in the web server that allows image-per-page representation and delivery.

(v) The participants shall programmatically link, preferably via hyperlink or some other automated process, the bibliographic header record with the text or image file it represents. Each participant's system must afford the LSN software enough information to allow a text or image file to be identified to the bibliographic data that describes it.

(vi) To facilitate data exchange, participants shall adhere to hardware and software standards, including, but not limited to:

(A) Network access must be HTTP/1.1 [http://www.faqs.org/rfcs/rfc2068.html] over TCP (Transmission Control Protocol, [http://www.faqs.org/rfcs/rfc793.html]) over IP (Internet Protocol, [http://www.faqs.org/rfcs/rfc791.html]).

(B) Associating server names with IP addresses must follow the DNS (Domain Name System), [http://www.faqs.org/rfcs/rfc1034.html] and [http://www.faqs.org/rfcs/rfc1035.html].

(C) Web page construction must be HTML [http://www.w3.org/TR/REC-html40/].

(D) Electronic mail (e-mail) exchange between e-mail servers must be SMTP (Simple Mail Transport Protocol, [http://www.faqs.org/rfcs/rfc821.html]).

(E) Format of an electronic mail message must be per [http://www.faqs.org/rfcs/rfc822.html] optionally extended by MIME (Multipurpose Internet Mail Extensions) per [http://www.faqs.org/rfcs/rfc2045.html]) to accommodate multipurpose e-mail.

(c) * * *

(3) Identify any problems experienced by participants regarding LSN availability, including the availability of individual participant's data, and provide a recommendation to resolve any such problems to the participant(s) and the Pre-License Application Presiding Officer relative to the resolution of any disputes regarding LSN availability, including disputes on the availability of an individual participant's data;

(4) Identify any problems regarding the integrity of documentary material certified in accordance with § 2.1009(b) by the participants to be in the LSN, and provide a recommendation to resolve any such problems to the participant(s) and the Pre-License Application Presiding Officer relative to the resolution of any disputes regarding the integrity of documentary material;

* * * * *

(6) Evaluate LSN participant compliance with the basic design standards in paragraph (b)(2) of this section, and provide for individual variances from the design standards to accommodate changes in technology or problems identified during initial operability testing of the individual documentary collection websites or the ''central LSN site''.

(7) Issue guidance for LSN participants on how best to comply with the design standards in paragraph (b)(2) of this section.

* * * * *

7. In § 2.1012, paragraph (a) is revised to read as follows:

§ 2.1012 Compliance.

(a) If the Department of Energy fails to make its initial certification at least six months prior to tendering the application, upon receipt of the tendered application, notwithstanding the provisions of § 2.101(f)(3), the Director of the NRC's Office of Nuclear Material Safety and Safeguards will not docket the application until at least six months have elapsed from the time of certification. The Director may determine that the tendered application is not acceptable for docketing under this subpart if the application is not accompanied by an updated certification pursuant to § 2.1009(b), or if the Secretary of the Commission determines that the application cannot be effectively accessed through the Commission's electronic docket system.

* * * * *

Dated at Rockville, Maryland, this 24th day of May 2001.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01–13609 Filed 5–30–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–58–AD; Amendment 39–12239; AD 2001–10–13]

RIN 2120–AA64

Airworthiness Directives; Britax Sell Gmbh & Co. OHG Water Boilers, Coffee Makers, and Beverage Makers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Britax Sell Gmbh & Co. OHG water boilers, coffee makers, and beverage makers. This action requires inspecting the wiring for indications of overheating or electrical arcing, and if indications are found, replacing the wiring. This amendment is prompted by reports of discolored and partially melted wires. The actions specified in this amendment are intended to prevent a fire in the galley compartment due to inadequate crimping of the electrical terminal contact pins, which could result in smoke in the cockpit and cabin and loss of control of the airplane.

DATES: Effective June 15, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 15, 2001.

Comments for inclusion in the Rules Docket must be received on or before July 30, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–58–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Britax Sell GmbH & Co. OHG, MPL Mr. H.D. Poggensee, P.O. Box 1161, 35721 Herborn Germany, telephone international code 49–2772–707–0; fax international code 49–2772–707–141. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7155; fax 781–238–7199.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Britax Sell Gmbh & Co. OHG coffee makers, water boilers, and beverage makers. The LBA advises that there have been 10 reports of discolored wires and two reports of partially melted wires. The crimping of the presently installed Faston Terminals part number (P/N) 3–520133–2 with blue nylon insulation may be insufficient for carrying the full electrical current flowing through that terminal. The insufficient crimping could cause an increased contact resistance in the terminal. The increased contact resistance could result in an increased terminal temperature, discoloration of the insulation, and a melting of the terminal insulation.

Manufacturer's Service Information

Britax Sell Gmbh & Co. OHG has issued service bulletins (SB's) E33–4–007SB, Revision 2, dated December 4, 2000; E33–4–009SB, dated October 24, 2000; E33–4–010SB, dated October 20, 2000; E33–4–011SB, dated October 21, 2000; E33–4–012SB, dated October 24, 2000; E33–4–013SB, dated October 23, 2000; E33–4–014SB, Revision 1, dated November 6, 2000; E33–4–015SB, dated October 23, 2000; and E33–4–016SB, Revision 1, dated November 6, 2000; that specify procedures for replacing the wires on temperature limiters installed on certain P/N water boilers, coffee makers, and beverage makers. The LBA classified these service bulletins as mandatory and issued AD 2000–379 in order to assure the airworthiness of these products in Germany.

Bilateral Airworthiness Agreement

These appliances are manufactured in Germany and are used on airplanes that are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are used on airplanes certificated for operation in the United States.

Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other appliances that are used on aircraft registered in the United States, this AD is being issued to prevent a fire in the galley compartment due to inadequate crimping of the electrical terminal contact pins, which could result in smoke in the cockpit and cabin and loss of control of the airplane. This AD requires an inspection for discoloration or melting of the wires, and if discolored or melted, the replacement of wires on the temperature limiters installed on certain water boilers, coffee makers, and beverage makers with P/N's that are listed in this AD. The replacements must be done in accordance with the service bulletins described previously.

Immediate Adoption

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000-NE–58-AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from 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, pursuant to 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. Section 39.13 is amended by adding the following new airworthiness directive:

2001–10–13 Britax Sell Gmbh & Co. OHG: Amendment 39–12239. Docket 2000-NE–58-AD.

Applicability

This airworthiness directive (AD) is applicable to certain Britax Sell Gmbh & Co. OHG water boilers, coffee makers, and beverage makers, listed by part number (P/N) and serial number (SN) in Table 1 of this AD. These products are installed on but not limited to Airbus Industrie A319, A320, A330, AVRO RJ, Boeing Company 717, 737, 747, 757, 767, 777, and Bombardier RJ airplanes.

Note 1: This AD applies to each appliance identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For appliances 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 (c) 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 the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required within 50 flight hours after the effective date of this AD, unless already done.

To prevent a fire in the galley compartment due to inadequate crimping of the electrical terminal contact pins, which could result in smoke in the cockpit and cabin and loss of control of the airplane, do the following:

(a) Inspect wire terminals (faston type) on temperature limiters of remote water boilers, coffee makers, water boilers, and beverage makers that are listed by P/N in Table 1 of this AD for discoloration or melting of wire terminal insulation.

(b) If terminal insulation is discolored or melted, replace the entire wire in accordance with the applicable service bulletin (SB) specified for the appliance in Table 1 as follows:

TABLE 1.—APPLIANCE P/N AND APPLICABLE SB FOR WIRE REPLACEMENT

Appliance	Appliance P/N	SN	Tank assembly P/N	Replace wiring in accordance with SB
(1) Remote Water Boiler	62204–001–029, 62204–001–031, 62204–001–037, 62204–001–043, 62204–001–047, and 62204–001–049.	00–04–0001 thru 00–07–0033 and 00–07–0038.	62203–001–005 and 62203–001–007.	E33–4–007SB, Revision 2, dated December 4, 2000, Accomplishment Instructions 3.A. through 3.O.
(2) Coffee Maker	(i) 64755	00–05–0001 and 00–09–0003.	64761–025–001	E33–4–009SB, dated October 24, 2000, Accomplish Instructions 3.A. through 3.J.

TABLE 1.—APPLIANCE P/N AND APPLICABLE SB FOR WIRE REPLACEMENT—Continued

Appliance	Appliance P/N	SN	Tank assembly P/N	Replace wiring in accordance with SB
	(ii) 64753–001–003	00–01–0001 thru 00–08–0060, 00–07–0065 thru 00–09–0079.	64761–025–001	E33–4–011SB, dated October 21, 2000, Accomplish Instructions 3.A. through 3.J.
	(iii) 64753–201–003	00–05–0001 and 00–05–0002.	64761–025–001	E33–4–012SB, dated October 24, 2000, Accomplish Instructions 3.A through 3.J.
	(iv) 64769–001–005 and 64769–001–007.	00–04–0001 thru 00–09–0033.	64769–025–003	E33–4–013SB, dated October 23, 2000, Accomplish Instructions 3.A. through 3.Q.
	(v) 64790–1	00–08–0001 thru 00–08–0003.	64790–331–001	E33–4–015SB, dated October 23, 2000, Accomplish instructions 3.A. through 3.L.
(3) Water Boiler	62197–001–001	00–04–0001 thru 00–05–0023, 00–08–0026, thru 00–09–0052 and 00–09–0055.	62197–015–001	E33–4–010SB, dated October 20, 2000, Accomplish Instructions 3.A. through 3.S.
(4) Beverage Maker	(i) 64771–001–001	00–04–0013 thru 00–04–0039, 00–04–0043 thru 00–08–0302, 00–08–0307 thru 00–08–0346, and 00–09–0368 thru 00–09–0371.	64771–025–005	E33–4–014SB, Revision 1, dated November 6, 2000, Accomplishment Instructions 3.A. through 3.J.
	(ii) 64771–001–003	00–02–0001 thru 00–03–0005, 00–04–0007 thru 00–04–0012, 00–04–0042 thru 00–04–0042, 00–04–0053 thru 00–04–0057, 00–05–0087 thru 00–05–0094, 00–07–0135 thru 00–07–0138, 00–08–0303 thru 00–08–306, 00–08–0347 thru 00–08–0354, and 00–09–0365 thru 00–09–0367.	64771–025–001	E33–4–016SB, Revision 1, dated November 6, 2000, Accomplishment Instructions 3.A. through 3.J.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Incorporation by Reference Material

(e) The actions required by this AD shall be performed in accordance with the following Britax Sell Gmbh & Co. OHG service bulletins, as applicable:

Document No.	Pages	Revision	Date
E33–4–007SB; Total pages: 7	All	Revision 2	December 4, 2000.
E33–4–009SB; Total pages: 5	All	Original	October 24, 2000.
E33–4–010SB; Total pages: 5	All	Original	October 20, 2000.
E33–4–011SB; Total pages: 5	All	Original	October 21, 2000.
E33–4–012SB; Total pages: 5	All	Original	October 24, 2000.
E33–4–013SB; Total pages: 5	All	Original	October 23, 2000.
E33–4–014SB; Total pages: 5	All	Revision 1	November 6, 2000.
E33–4–015SB; Total pages: 5	All	Original	October 23, 2000.
E33–4–016SB; Total pages: 5	All	Revision 1	November 6, 2000.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Britax Sell GmbH & Co. OHG, MPL Mr. H.D. Poggensee, P.O. Box 1161, 35721 Herborn Germany, telephone international code 49–2772–707–0; fax international code 49–2772–707–141. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Luftfahrt-Bundesamt airworthiness directive 2000–379, dated November 13, 2000.

Effective Date of This AD

(f) This amendment becomes effective on June 15, 2001.

Issued in Burlington, Massachusetts, on May 17, 2001.

Diane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–13182 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–207–AD; Amendment 39–12242; AD 2001–11–01]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–32 Series Airplanes Modified Per Supplemental Type Certificate SA4371NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–9–32 series airplanes modified per Supplemental Type Certificate SA4371NM, that requires an inspection to determine if certain ground wires on the water heater of each lavatory are installed, and corrective action, if necessary. The actions specified by this AD are intended to detect improper grounding of a water heater, which, coupled with an internal short in the water heater, could result in heat or smoke damage or a fire on the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective July 5, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 5, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from from Hexcel Interiors, 3225 Woburn Street, Bellingham, Washington 98226; or Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2788; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–9–32 series airplanes modified per Supplemental Type Certificate SA4371NM was published in the **Federal Register** on February 15, 2001 (66 FR 10380). That action proposed to require an inspection to determine if certain ground wires on the water heater of each lavatory are installed, and corrective action, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 20 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,200, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from 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, pursuant to 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. Section 39.13 is amended by adding the following new airworthiness directive:

2001–11–01 McDonnell Douglas: Amendment 39–12242. Docket 2000–NM–207–AD.

Applicability: Model DC–9–32 series airplanes modified per Hexcel Supplemental Type Certificate (STC) SA4371NM, as listed in Hexcel Service Bulletin 110000–25–001, dated March 31, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes 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 (b) 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 the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect improper grounding of a water heater, which, coupled with an internal short in the water heater, could result in heat or smoke damage or a fire on the airplane, accomplish the following:

Inspection and Corrective Action

(a) Within 18 months after the effective date of this AD, perform a one-time general visual inspection to determine if ground wires are installed between the top of the water heater and the sink unit and between the sink unit and the mounting flange of the toilet flush timer module on each lavatory, per Hexcel Service Bulletin 110000–25–001, dated March 31, 2000. If any ground wire is not installed, before further flight, install a ground wire assembly per the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Hexcel Service Bulletin 110000–25–001, dated March 31, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Hexcel Interiors, 3225 Woburn Street, Bellingham, Washington 98226; or Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on July 5, 2001.

Issued in Renton, Washington, on May 18, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–13181 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR 257

[Release No. 35–27404; File No. S7–07–01]

RIN 3235–AI12

Electronic Recordkeeping by Public Utility Holding Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting amendments to revise rules under the Public Utility Holding Company Act of 1935 regarding recordkeeping requirements for registered public utility holding companies and their mutual or subsidiary service companies. The current rules were most recently updated in 1984 and allow regulated companies to preserve records using storage media such as paper, magnetic tape, and microfilm. The amendments will expand the approved recordkeeping methods to allow the use of modern information technology resources. The Commission is adopting these rule amendments in response to the passage of the Electronic Signatures in Global and National Commerce Act, which encourages federal agencies to accommodate electronic recordkeeping.

EFFECTIVE DATE: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Catherine A. Fisher, Assistant Director, Robert P. Wason, Chief Financial Analyst, or Victoria J. Adraktas, Attorney-Advisor, Office of Public Utility Regulation, (202) 942–0545, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0503.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') today is adopting amendments to rule 1 [17 CFR 257.1],[1] regarding the preservation and destruction of records of registered public utility holding companies and of mutual and subsidiary service companies, under the Public Utility Holding Company Act of 1935 [15 U.S.C. 79] (''Holding Company Act'').

Executive Summary

Federal law requires registered public utility holding companies and their mutual or subsidiary service companies to make and keep books and records.[2] The recordkeeping requirements are a key part of the Commission's public utility holding company regulatory program because they allow us to monitor the operations of companies and to evaluate their compliance with federal law. The recordkeeping rule currently permits records to be preserved and maintained using storage media such as paper, magnetic tape, and microfilm. In light of the advances in information technology since the rule was promulgated in 1984 and in particular the rapid changes in technology in recent years, we believe that we should revise the standards for permissible recordkeeping media to allow the use of current electronic recordkeeping and storage resources in

[1] Unless otherwise noted, all references to rule 1 will be to 17 CFR 257.1.

[2] ''Company'' or ''companies'' means a service company subject to 17 CFR 250.93, or a holding company subject to 17 CFR 250.26, which is not an electric utility company or a gas utility company, and any predecessor or inactive or dissolved associate company, the records of which are in the possession or control of such company.

maintaining required records.[3] Moreover, because the proposed amendments do not specify the use of any particular technologies, they allow for the adoption of new technologies in the future. Finally, we are also interpreting rule 1 to be the exclusive means by which companies can comply with the recordkeeping provisions of the Electronic Signatures in Global and National Commerce Act (''Electronic Signatures Act,'' ''Act,'' or ''ESIGN'').

Last year, Congress passed the Act to facilitate the use of electronic records and signatures in interstate and foreign commerce.[4] Consistent with the purpose and goals of the Electronic Signatures Act, we are amending the Holding Company Act rules to expand the circumstances under which companies may keep their records on electronic storage media. We are also updating our recordkeeping rules and amending them for clarification. The amendments are designed to update rule 1 to reflect and accommodate companies' use of modern information technology resources to maintain and index records.

I. Discussion

A. Amendments to Rule 1

The Commission is amending rule 1 to permit companies to keep their records in an electronic format. We also proposed to clarify the obligation of companies to provide copies of their records to Commission examiners, and to incorporate terminology used in electronic recordkeeping rules under the Securities Exchange Act of 1934 into rule 1.[5] We received six comment letters addressing the proposal.[6] Commenters supported the proposed amendments, and we are adopting them substantially as proposed, with a few changes in response to concerns expressed by commenters.

We are expanding the variety of formats that companies may use to maintain required records to include electronic and micrographic storage media. Under the revised rule 1, companies are permitted to maintain records electronically if they establish and maintain procedures: (i) To safeguard the records from loss, alteration, or destruction, (ii) to limit access to the records to authorized personnel, the Commission, and directors of the company, and (iii) to ensure that electronic copies of non-electronic originals are complete, true, and legible.[7]

We are also amending the rules to clarify the obligation of companies to provide copies of their records to Commission examiners. The amendments make clear that companies may be requested to promptly provide (i) legible, true, and complete copies of records in the medium and format in which they are stored, and printouts of such records; and (ii) means to access, view, and print the records.[8]

We are not adopting a proposed amendment that would have stated that records are to be provided in no case more than one business day after a request.[9] Some commenters were concerned that such an amendment could preclude companies from agreeing to a schedule of record production with the examination staff to produce certain documents immediately and other documents, that are not immediately accessible, on a delayed basis. We agree that such arrangements when entered into and performed in good faith by the examined entity can facilitate the examination process. While the ''promptly'' standard imposes no specific time limit, we expect that a company would be permitted to delay furnishing electronically stored records for more than 24 hours only in unusual circumstances. At the same time, we believe that in many cases companies could, and therefore will be required to, furnish records immediately or within a few hours of request.

In addition, commenters raised concerns that the amendment requires companies to maintain duplicate copies of records. We wish to clarify that this requirement only applies to records stored on electronic or micrographic media. It is not a requirement for records kept in any other type of media. These duplicates may be maintained in any media form.

B. Electronic Signatures Act

Under the Electronic Signatures Act, an agency's recordkeeping requirements may be met by retaining electronic records that accurately reflect the information set forth in the record, and remain accessible to all persons who are entitled to access, in a format that can be accurately reproduced.[10] The Act allows us to interpret this provision pursuant to our authority under the Holding Company Act.[11] Our interpretation of the Electronic Signatures Act must be consistent with the Act and not add to its requirements.[12] The interpretation must be based on findings that (i) our interpreting regulations are substantially justified; (ii) the methods selected to carry out our purposes are substantially equivalent to the requirements imposed on records that are not electronic records and will not impose unreasonable costs on the acceptance and use of electronic records; and (iii) the methods selected to carry out our purposes do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures.[13] The Electronic Signatures Act explicitly authorizes agencies to interpret the Act's electronic recordkeeping provisions to specify performance standards to assure accuracy, record integrity, and accessibility of electronically retained records.[14]

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[3] We recognize that the standards for electronic recordkeeping we are adopting for registered public utility holding companies are different from rules we have adopted for broker-dealers, which require brokerage records to be preserved in a non-rewritable, non-erasable (the ''write-once, read many'' or ''WORM'') format. There are, however, significant differences between the industries. In addition, we have not experienced any significant problems with registered holding companies altering stored records. In light of these factors, the costs of requiring registered public utility holding companies to invest in new electronic recordkeeping technologies may not be justified.

[4] Electronic Signatures in Global and National Commerce Act, Pub. L. 106–229 (*see* Preamble).

[5] *See* Electronic Recordkeeping by Public Utility Holding Companies, Holding Company Act Release No. 25357 (Mar. 19, 2001) [66 FR 16158 (Mar. 23, 2001)] (''Proposing Release'') at section I.B.

[6] The comment letters are available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC (File No. S7–07–01).

[7] Rule 1. One commenter expressed concern that the restriction on access to records required to be maintained would restrict companies from allowing access to records by properly authorized employees. We note that ''authorized personnel'' in the text of the rule is intended to permit companies to allow access to required records to any person the company chooses to provide access. The objective of this restriction is to ensure that companies adequately safeguard records from unauthorized access.

[8] Rule 1(e)(2).

[9] *See* proposed rule 1(e)(2)(ii).

[10] ESIGN section 101(d)(1).

[11] Under the Electronic Signatures Act, a federal regulatory agency (like the Commission) that is responsible for rulemaking under any other statute (such as the Public Utility Holding Company Act) ''may interpret section 101 [of the Electronic Signatures Act] with respect to such statute through the issuance of regulations pursuant to a statute; or to the extent such agency is authorized by statute to issue orders or guidance, the issuance of orders or guidance of general applicability that are publicly available and published (in the **Federal Register** in the case of an order or guidance issued by a Federal regulatory agency).'' ESIGN section 104(b).

[12] ESIGN section 104(b)(2)(A) and (B).

[13] ESIGN section 104(b)(2)(C).

[14] ESIGN section 104(b)(3). Such performance standards may be specified in a manner that imposes a requirement in violation of the general prohibition against selecting methods that require or accord greater legal status or effect to the implementation or application of a specific

We interpret the Electronic Signatures Act with respect to the Holding Company Act to require companies to comply with the requirements of rule 1 when they keep required records on electronic storage media. Companies, therefore, can comply with the requirements of the Electronic Signatures Act only by complying with the requirements of amended rule 1. In the proposing release, we asked for comment on whether these interpretations were consistent with the Electronic Signatures Act's requirements.[15] Commenters generally agreed that our interpretation of the Electronic Signatures Act was reasonable. As discussed below, our rules and interpretation satisfy all the requirements of the Electronic Signatures Act.

1. Consistency With Electronic Signatures Act

Rule 1 is consistent with the Electronic Signatures Act. The Act permits federally required records to be retained in an electronic format, and we are amending rule 1 to permit companies to maintain all required records electronically.

2. No Additional Requirements

Rule 1 imposes no requirements in addition to those imposed by the Act. The Electronic Signatures Act requires electronic records to be stored in a manner that ensures that they are accurate, accessible, and capable of being accurately reproduced for later reference.[16] The rule requires companies that maintain their records electronically to comply with certain conditions that are consistent with the requirements of the Act and that are designed to bring about companies' compliance with the Act's requirements.[17]

3. Substantial Justification

Our rule requires companies to maintain a wide variety of documents that we use to verify compliance with the Holding Company Act. The value of these records is entirely dependent on their integrity and accessibility. If companies are not required to protect their records from inadvertent or intentional alteration or destruction [18] and provide examiners with meaningful access to all required records,[19] then the records become unreliable, and the examination process moot. Therefore, we find that our interpretation of the Electronic Signatures Act, that companies must comply with rule 1, is substantially justified.

4. Requirements Equivalent to Requirements for Other Record Formats

Rule 1 subjects electronic records to conditions that are substantially equivalent to conditions under which companies keep paper and micrographic records. These conditions are designed to ensure that the records exist in a form that is legible, authentic, complete, and accessible. While rule 1 stipulates that all records, regardless of format, must comply with certain conditions, other requirements, which would be superfluous for paper records, apply only to electronic and micrographic records.[20]

Companies that maintain records in an electronic format must comply with several requirements that have no micrographic or paper equivalent. For example, companies must have procedures to reasonably protect electronic records from loss, alteration, or destruction,[21] to limit access to electronic records,[22] and to reasonably ensure that electronic records that are created from hard copy are complete, true, and legible.[23] We believe that these additional requirements are necessary because of the unique vulnerability of unprotected electronic records to undetectable alteration and falsification.

5. No Unreasonable Costs on Acceptance and Use of Electronic Records

Rule 1 provides significant flexibility for companies subject to the Act's recordkeeping requirements. In particular, it permits the use of any electronic storage media. We conclude that rule 1 will not impose unreasonable costs on the acceptance and use of electronic recordkeeping.

6. Specific Technology or Technical Specification

The Electronic Signatures Act generally prohibits us from requiring or according greater legal status or effect to the implementation or application of a specific technology or technical specification. However, the Act does permit us to specify performance standards to assure the accuracy, integrity, and accessibility of required records, even if our standards require companies to implement or apply a specific technology or technical specification to their storage system.[24] Rule 1 has been deliberately crafted to be technologically neutral, leaving companies free to adopt any combination of technological and manual protocols that meet the requirements of the rule. In any event, even if the rule was interpreted to favor a specific technology or technical specification, it would nonetheless be a valid exercise of our interpretive authority, as it serves the important governmental objective of assisting us to oversee company compliance with the Holding Company Act, and are substantially related to the achievement of that objective.[25] The continuing accessibility and integrity of company records are critical to the fulfillment of our oversight responsibilities.

C. Effective Date

The effective date for these amendments is May 31, 2001. In most cases, the Administrative Procedures Act (''APA'') requires that a rule amendment be published in the **Federal Register** at least 30 days prior to its effective date unless the promulgating

technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures if the requirement (i) serves an important governmental objective; and (ii) is substantially related to the achievement of that objective. ESIGN section 104(b)(3).

[15] *See* Proposing Release, *supra* at note 5.

[16] ESIGN section 101(d)(1).

[17] The rules' general requirements that companies have procedures to protect electronic records from alteration, loss, or destruction, to limit unauthorized access, and verify the integrity of electronic copies of hard copy originals ensure that an electronic record is accurate from the outset, and limit the possibility that an electronic record will be corrupted during its retention period. The rule's requirements regarding indexing, and the obligation of companies to provide records to examiners and directors foster the accessibility of electronic records.

[18] *See* rule 1(e)(2)(ii) (requiring procedures to ensure the quality of electronic copies of non-electronic records); rule 1(e)(2)(iii) (requiring that companies separately store duplicates of electronic records); rule 1(e)(3)(ii) (requiring companies to limit access to electronic records); and rule 1(e)(3)(i) (requiring companies to adopt procedures to maintain and preserve electronic records, so as to reasonably safeguard them from loss, alteration, or destruction).

[19] *See* rule 1(e)(2)(ii)(A) (requiring companies to provide promptly a legible, true, and complete copy of an electronically stored record upon request from the Commission or other parties entitled to access the records); rule 1(e)(2)(i) (requiring companies to arrange and index their electronic and micrographic records in a way that permits easy location and retrieval); and rule 1(e)(2)(ii)(C) (requiring companies to provide means to access, view, and print electronic records).

[20] For example, the requirement that companies that keep micrographic or electronic records provide promptly (i) a legible, true, and complete copy of the record in the medium and format in which it is stored, (ii) a legible, true, and complete printout of the record, and (iii) means to access, view, and print the records is unnecessary for paper records, which require no special treatment to make them readable and reproducible.

[21] Rule 1(e)(3)(i).

[22] Rule 1(e)(3)(ii).

[23] Rule 1(e)(3)(iii).

[24] ESIGN section 104(b)(3)(A).

[25] ESIGN section 104(b)(3)(A).

agency can show good cause for shortening this interim period.[26] The Electronic Signatures Act becomes effective on June 1, 2001, at which point companies may opt to store required records electronically, so long as the records are accessible and accurate.[27] As described above, the Electronic Signatures Act authorizes the Commission to interpret these terms. A gap between the effective dates of the Electronic Signatures Act and our rule amendments would needlessly create confusion about the appropriate standards for electronic recordkeeping. During the period between the effective dates, companies would be forced to choose between maintaining their electronic records in accordance with the Act's general, but operative standards, or relying instead on the more specific but as yet not effective standards set in rule 1. We find that there is good cause for these amendments to become effective on May 31, 2001.

The APA also authorizes acceleration of the effective date of a rule that ''relieves a restriction.'' [28] The amendments to rule 1 allow companies to store all of their required records electronically, remove restrictions on the type of electronic storage media that may be used, and effectively eliminate most of the conditions previously placed on the ability of companies to convert paper records to an electronic format.

II. Cost-Benefit Analysis

In proposing the amendments to rule 1, we considered the costs and benefits that the amendments would generate. Although we encouraged commenters to address the proposal's costs and benefits and to submit their own estimates of what they might be, we received no comment specifically addressing this issue.[29]

We believe the amendments will impose few if any costs on companies that are not already required. As described above, the amended rules allow companies to choose to maintain required records on electronic storage media. Electronic storage remains optional with the adoption of these amendments. We assume that companies will not select the electronic storage option provided for in the amended rule unless doing so is less expensive (or otherwise more efficient and, therefore, supported by business considerations). It remains our belief that the amended rule will allow companies greater flexibility to make business decisions about recordkeeping and, when appropriate, opt for electronic storage with potential cost savings and other benefits.

In addition, we are adopting minor amendments to clarify the obligation of companies to provide records to our examination staff and minor technical amendments to conform the language of rule 1 to the recordkeeping rules under the Securities Exchange Act of 1934. We anticipate few if any costs to companies as a result of these amendments.

III. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [U.S.C. 605(b)], the Acting Chairman of the Commission certified that the amendments will not have a significant economic impact on a substantial number of small entities. The certificate was published in the **Federal Register** with the proposal. We received no comments on the certificate.

IV. Paperwork Reduction Act

The amendments do not require a new collection of information. They affect only the manner in which, pursuant to rule 1, registrants can store the information that must be collected under rule 26 [17 CFR 250.26]. In connection with rule 26, the Commission previously submitted to the Office of Management and Budget, pursuant to the Paperwork Reduction Act, a request for approval and received an OMB control number for the rule, OMB Control No. 3235–0183.

V. Statutory Authority

The Commission is adopting amendments to rule 1 of the Holding Company Act pursuant to authority set forth in sections 15 and 20(a) of the Holding Company Act [15 U.S.C. 79(o) and 15 U.S.C. 79(t)].

List of Subjects in 17 CFR Part 257

Holding companies, Reporting and recordkeeping requirements.

Text of Rule Amendments

For reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 257—PRESERVATION AND DESTRUCTION OF RECORDS OF REGISTERED PUBLIC UTILITY HOLDING COMPANIES AND OF MUTUAL AND SUBSIDIARY SERVICE COMPANIES

1. The authority citation for Part 257 is added to read as follows:

Authority: 15 U.S.C. 79(o) and 79(t), unless otherwise noted.

2. The authority citations following §§ 257.1 and 257.2 are removed.

3. Section 257.1 is amended by:

a. Removing paragraphs (e) through (h);

b. Adding new paragraph (e); and

c. Redesignating paragraphs (i) through (m), as paragraphs (f) through (j).

The addition reads as follows:

§ 257.1 General instructions.

* * * * *

(e)(1) *Micrographic and electronic storage permitted.* The records required to be maintained and preserved under § 250.26 of this chapter may be maintained and preserved for the required time by, or on behalf of, a company on, among other formats:

(i) Micrographic media, including microfilm, microfiche, or any similar medium; or

(ii) Electronic storage media, including any digital storage medium or system that meets the terms of this section.

(2) *General requirements.* The company, or person that maintains and preserves records on its behalf, must:

(i) Arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;

(ii) Provide promptly any of the following that the Commission (by its examiners or other representatives) or the directors of the company may request:

(A) A legible, true, and complete copy of the record in the medium and format in which it is stored;

(B) A legible, true, and complete printout of the record; and

(C) Means to access, view, and print the records; and

(iii) Separately store, for the time required for preservation of the original record, a duplicate copy of a record that is stored on micrographic or electronic storage media.

(3) *Special requirements for electronic storage media.* In the case of records on electronic storage media, the company, or person that maintains and preserves records on its behalf, must establish and maintain procedures:

(i) To maintain and preserve the records, so as to reasonably safeguard

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[26] 5 U.S.C. 553(d)(3).

[27] ESIGN section 101(d)(1).

[28] 5 U.S.C. 553(d)(1).

[29] Commenters' submissions discussed the potential costs of keeping duplicates of all records required to be maintained regardless of their original format, which, as we clarify above, is not the intent of the amendment. In addition, commenters discussed the cost of the proposing release's inclusion of a 24 hour turn around period for document requests, which has been dropped from the amendment.

them from loss, alteration, or destruction;

(ii) To limit access to the records to properly authorized personnel, the directors of the company, and the Commission (including its examiners and other representatives); and

(iii) To reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete and true, and legible when retrieved.

* * * * *

Dated: May 24, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13586 Filed 5–30–01; 8:45 am]

BILLING CODE 8010–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 369

RIN 3220–AB49

Use of the Seal of the Railroad Retirement Board

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to add a part explaining when use of the Board's seal is permitted. Federal law prohibits the use of an agency seal except as authorized by regulation. The Board previously had no such regulation.

EFFECTIVE DATE: This rule is effective May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, (312) 751–4945, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: The Railroad Retirement Board is an independent agency in the executive branch of the United States Government which is charged with the administration of the Railroad Retirement Act (45 U.S.C. 231 *et seq.*) and the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*). Use of agency seals is governed by 18 U.S.C. 701 which prohibits the use of agency seals except as authorized under regulations made pursuant to law. This proscription is intended to protect the public against the use of a recognizable assertion of authority with intent to deceive (*U.S.* v. *Goeltz,* 513 F.2d 193 (C.A. Utah 1975), *cert. den.* 423 U.S. 830). The regulations of the Railroad Retirement Board previously did not include provisions for the authorization of use of the Agency's seal. The Board is adding Part 369 to its regulations to explain when use of the Board's seal is permitted.

The Board published this rule as a proposed rule on January 3, 2001 (66 FR 314–315) and invited comments by March 5, 2001. No comments were received. Accordingly, the proposed rule is adopted as a final rule without change.

In order to comply with the President's June 1, 1998 memorandum directing the use of plain language for all proposed and final rulemaking, the regulatory paragraphs introduced by the above rule changes have been written in plain language.

This rule concerns agency management and is not a regulation as defined in Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 369

Railroad retirement, Seals and insignia.

For the reasons set out in the preamble, the Railroad Retirement Board adds Part 369 to title 20, chapter II, subchapter F of the Code of Federal Regulations as follows:

PART 369—USE OF THE SEAL OF THE RAILROAD RETIREMENT BOARD

Sec.

369.1 Unofficial use of the seal of the Railroad Retirement Board.
369.2 Authority to grant written permission for use of the seal.
369.3 Procedures for obtaining permission to use the seal.
369.4 Inappropriate use of the seal.
369.5 Penalty for misuse of the seal.

Authority: 18 U.S.C. 701; 45 U.S.C. 231f.

§ 369.1 Unofficial use of the seal of the Railroad Retirement Board.

Use of the seal of the Railroad Retirement Board for non-Agency business is prohibited unless permission for use of the seal has been obtained in accordance with this part.

§ 369.2 Authority to grant written permission for use of the seal.

The Board hereby delegates authority to grant written permission for the use of the seal of the Railroad Retirement Board to the Director of Administration.

§ 369.3 Procedures for obtaining permission to use the seal.

Requests for written permission to use the seal of the Railroad Retirement Board shall be in writing and shall be directed to the Director of Administration of the Railroad Retirement Board. The request should, at a minimum, contain the following information:

(a) Name and address of the requester.

(b) A description of the type of activity in which the requester is engaged or proposes to engage.

(c) A statement of whether the requester considers the proposed use or imitation to be commercial or non-commercial, and why.

(d) A brief description and illustration or sample of the proposed use, as well as a description of the product or service in connection with which it will be used. This description will provide sufficient detail to enable the Director of Administration to determine whether the intended use of the seal is consistent with the interests of the government.

(e) In the case of a non-commercial use, a description of the requesting organization's function and purpose shall be provided.

§ 369.4 Inappropriate use of the Seal.

The Railroad Retirement Board shall not grant permission for use of the seal in those instances where use of the seal will give the unintended appearance of Agency endorsement or authentication. Situations where use of the seal of the Railroad Retirement Board would be inappropriate include, but are not limited to, the following examples:

(a) A consulting firm makes arrangements with a railroad to conduct a retirement planning seminar for its employees. Included in the material distributed to the seminar attendees is a booklet, prepared by the consulting firm, which displays the seal of the Railroad Retirement Board on the cover and contains information regarding benefits payable under the Railroad Retirement Act.

(b) A former employee of the Railroad Retirement Board owns a coffee and donut shop, frequented by present and past railroad workers. Many of the shop's customers know of the owner's prior employment with the Board and frequently ask him questions related to benefits payable under the Railroad Unemployment Insurance and Railroad Retirement Acts. The shop owner prepares and distributes to his customers a monthly flyer listing benefit questions presented to him during the month, as well as his answers to the questions. The flyer displays the seal of the Board.

(c) A retired railroad employee works part-time in a train hobby shop. The shop owner, at the former railroad worker's suggestion, develops and sells items such as coffee mugs and computer mouse pads with text relevant to benefits paid by the Railroad Retirement Board. The text is taken from

publications issued by the Railroad Retirement Board. The merchandise also bears the seal of the Railroad Retirement Board.

§ 396.5 Penalty for misuse of the seal.

Unauthorized use of the seal of the Railroad Retirement Board may result in criminal prosecution under applicable law.

Dated: May 22, 2001.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 01–13654 Filed 5–30–01; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF 454; Ref: Notice No. 866]

RIN 1512–AA07

Establishment of Santa Rita Hills Viticultural Area (98R–129 P)

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

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule establishes a viticultural area located in Santa Barbara County, California, to be known as ''Santa Rita Hills.'' The proposed area occupies more than 48 square miles. This action is being taken as a result of a petition from viticulturists and vintners of the proposed area under the direction of J. Richard Sanford (Sanford Winery), Bryan Babcock (Babcock Vineyards and Winery), and Wesley D. Hagen (Vineyard Manager of Clos Pepe Vineyards).

The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising allow wineries to designate the specific areas where the grapes used to make the wine are grown and enable consumers to better identify the wines they purchase.

EFFECTIVE DATE: July 30, 2001.

FOR FURTHER INFORMATION CONTACT: Joyce A. Drake, ATF Specialist, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20091–0221 (202)-927–8210.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of defined viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas. Section 4.25a(e)(1), Title 27, CFR, defines an American Viticultural Area (AVA) as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in subpart C of part 9. Section 4.25a(e)(2) outlines the procedure for proposing an AVA. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

ATF received a petition under the direction of J. Richard Sanford (Sanford Winery) which was written by Wesley D. Hagen (Vineyard Manager of Clos Pepe Vineyards), on behalf of viticulturists and vintners working in Santa Barbara County, California. The petition, which was signed by 22 people, 14 of whom are local wine grape growers, proposed to establish a viticultural area surrounded by but separate from the Santa Ynez Valley AVA of California to be known as ''Santa Rita Hills.'' The boundary of the viticultural area encloses an estimated area slightly greater than forty-eight (48) square miles and contains approximately 500 acres of planted varietal winegrapes. Currently two (2) wineries and seventeen (17) vineyards exist within the Santa Rita Hills area. Two additional vineyards are being developed.

Comments

On September 11, 1998, ATF published a notice of proposed rulemaking, Notice 866, in the **Federal Register**, soliciting comments on the proposed vitucultural area.

Analysis of Comments

ATF received a total of 35 comments concerning this petition. Eleven letters of support from various persons familiar with the proposed AVA were submitted with the petition. These letters of support included industry ''experts,'' vintners, consultants, local politicians (such as the Chair for the Santa Barbara County Board of Supervisors and the Mayor of the city of Lompoc), and viticulturists. Seven of the eleven comments were from persons who had also signed the petition. All 11 comments attested to the uniqueness of the area, its distinctive characteristics (geological, geographic, and climatic) and the local recognition of the area by the proposed name.

ATF received 24 comments that opposed the establishment of the Santa Rita Hills AVA. Most of these commenters were foreign/international importers and distributors. The opposition in each response revolved around the similarity of the proposed name to an already established ''Santa Rita'' brand of wine from Chile.

All Commenters Opposing the Establishment of the ''Santa Rita Hills'' Viticultural Area Presented the Following To Support Their Contention That the Petition To Establish the Santa Rita Hills Viticultural Area Should Be Denied

There is already a well known and established ''Santa Rita'' vineyard and winery located in Chile, Vina Santa Rita, which was founded in 1880 and is known worldwide. Vina Santa Rita is a public company whose shares are traded on the Santiago Stock Exchange. This ''Santa Rita'' winery is the second largest winery in Chile, with consumer brand recognition in the Chilean wine industry. Large sums of money have been invested by both the ''Santa Rita'' winery in Chile and various importers and distributors worldwide to advertise and promote the ''Santa Rita'' (Chile) brand.

The opposing commenters contend that the establishment of a ''Santa Rita Hills'' viticultural area would confuse

wine consumers who already associate the name ''Santa Rita'' with the Chilean wine. One commenter stated that, since the names are phonetically identical (sans the last word ''Hills''), a product labeled of a ''Santa Rita Hills'' appellation may be seen as a variety of the Chilean ''Santa Rita'' as the Chilean ''Santa Rita'' is surrounded by hills and mountains. Also, since both names would refer to the same product (wine), the likelihood of consumer confusion would increase.

The opponents believe Chile's ''Santa Rita'' owns a U.S. trademark and, therefore, the establishment of the ''Santa Rita Hills'' viticultural area would result in an infringement of the ''Santa Rita'' registered mark under the Lanham Act.

The opponents' view is that the establishment of a ''Santa Rita Hills'' AVA would violate the U.S. obligations under the Paris Convention and General Agreement on Tariffs and Trade (GATT), including Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Arguments Supporting the Establishment of the ''Santa Rita Hills'' Viticultural Area

The name ''Santa Rita Hills'' is locally and/or nationally known as referring to the specified area through maps, land records, reports, and various texts. These records show the Santa Rita area dating back to 1845 (35 years prior to the founding of the Santa Rita winery in Chile). The Californian Santa Rita title was accredited and confirmed in the U.S. Patent Book ''A'' on June 25, 1875.

The ''Santa Rita'' name is also used, and ATF approved, as a brand name on other wines not from Chile. According to documents found in ATF's label files, the ''Santa Rita'' name has been used on wines from Italy and the United States. This includes the use of the name ''Santa Rita'' on wines from Longoria, a winery in the Santa Rita Hills area whose proprietor, Richard Longoria, submitted a letter of support as well.

Wines from the ''Santa Rita Hills'' area have been recognized viticulturally and enologically as distinct by world-renowned writers and mentioned as such in wine literature. Supporting documentation shows that the area has a cool climate and soils more conducive to growing ''Region One'' cool-climate grape varietals whereas the surrounding Santa Ynez Valley AVA provides a warmer climate and soils for ''Region Two'' grape growing varietals. This distinction results in different wine varietals from each region.

The region of Santa Rita Hills is recognized viticulturally and enologically for producing world class cool-climate grapes such as Pinot Noir and Chardonnay, because of the unique climatic and geographical influences of the area.

Discussion

Evidence of Name

ATF is satisfied that the petitioner provided evidence that the name ''Santa Rita Hills'' is locally known as referring to the area specified in the petition. In the exhibits and maps furnished with the petition, there are numerous references to both ''Santa Rita'' and ''Santa Rita Hills.''

Evidence submitted with the petition relating to name includes:

(a) The U.S.G.S. Lompoc, Lompoc Hills, Los Alamos, and Santa Rosa Quadrangle maps used to show the boundaries of the proposed area use the name ''Santa Rita Hills'' to identify the area.

(b) The U.S.G.S. Water-Resources Investigations Report 970–4056 (Evaluation of Ground Water Flow and Solute Transport in the Lompoc Area, Santa Barbara County, California) discusses the ''Santa Rita Upland Basin.'' The report indicates that ''Santa Rita'' is a recognized geological, geographical, and hydrological appellation in Santa Barbara County, California.

(c) An excerpt, ''From the Missions to Prohibition,'' in the publication *Aged in Oak: The Story of the Santa Barbara County Wine Industry* (1998), provided by the petitioner shows the vineyards and wineries in Santa Barbara County prior to 1900 include the name ''Santa Rita.''

(d) The text provided by the petitioner from *History of Santa Barbara County* (1939) states, ''Following the secularization of the Mission La Purisma, the rest of the valley was broken up into seven great ranchos granted to private owners. They were Santa Rosa, *Santa Rita,* Salsipuedes, La Purisima, Mission Vieja, Lompoc and a portion of the Jesus Maria.'' (Italics added for emphasis.)

The Land Records of Santa Barbara County from the U.S.G.S. furnished by the petitioner show the Santa Rita area dating back to 1845. According to this information, Santa Rita was established as a recognized political and geographical region when a land grant for Santa Rita was made to Jose Ramon Malo from Spanish governor Pio Pico on April 12, 1845. The title was accredited to Jose Ramon Malo on June 25, 1875 by President Ulysses S. Grant as confirmed in the U.S. Patent Book A. (Pertinent pages are shown as exhibits to the petition.) The patent issued included 13,316 acres within the boundary of the Santa Rita Land Grant.

The names ''Santa Rita'' and ''Santa Rita Hills'' are both well documented in the petition and are both supported by written comments evidencing local recognition of the name as referring to the area specified in the petition. ATF finds that the name ''Santa Rita Hills'' is appropriate to identify the viticultural area based upon evidence submitted with the petition, including commenters' support of the name ''Santa Rita Hills'' to describe the viticultural area and U.S.G.S maps identifying the area as ''Santa Rita Hills''.

As to potential confusion between a product labeled with a ''Santa Rita Hills'' AVA and wines labeled with the name ''Santa Rita,'' a similar issue was raised when ATF was presented with a petition to establish a ''Madera'' AVA back in 1984. Some commenters to the petition, including the Portuguese Embassy, objected to the appellation of ''Madera'' due to possible confusion with the Portuguese island of Madeira which had produced world famous wine for over 500 years. The commenters were concerned that the use of the appellation''Madera'' would cause possible confusion with Madeira wine (a class and type of dessert wine). ATF had previously recognized Madeira as a class and type of wine and as a semi-generic wine designation with geographical significance. When used as a class and type designation, Madeira had to be qualified with an appellation of origin if the wine was not from the island of Madeira.

Although ATF recognized the similarity in the names ''Madera'' and ''Madeira,'' ATF ruled in favor of the petitioner. All evidence showed that the proposed AVA was locally and nationally known as ''Madera'' thus meeting the requirement in 27 CFR 4.25a(e)(2)(I). In addition, ATF did not see any consumer confusion between ''Madera'' and ''Madeira'' wine when ''Madera'' was used as an appellation of origin on domestic wines.

In the present case, while ATF also recognizes the similarity between the name of the viticultural area ''Santa Rita Hills'' and the name ''Santa Rita'' in Chile, ATF is satisfied that the petition meets all of the requirements of 27 CFR 4.25a. Evidence submitted with the petition amply supports the local recognition of the name ''Santa Rita Hills.'' In addition, ATF does not foresee a likelihood of consumer confusion between the ''Santa Rita Hills'' AVA and other geographic areas of the same name. Numerous labels

bearing the name ''Santa Rita'' in one form or another have already been approved (from the United States, Chile, and Italy) dating from 1980, and ATF is aware of no reported consumer confusion as to the respective products' origins.

As to objections to the use of the name ''Santa Rita Hills'' based upon potential violations of the Lanham Act and insofar as it implements U.S. obligations on trademarks under the Paris Convention, GATT, and TRIPS, these issues are matters of private dispute that do not restrict ATF's authority to establish a viticultural area under the Federal Alcohol Administration Act (''FAA Act''), 27 U.S.C. 205(e).

Lanham Act

It is ATF's position that the rights granted by registered trademarks under the Lanham Act do not foreclose the right to use the same or similar names on an alcohol beverage label under the FAA Act. In determining whether to establish a viticultural area of a particular name that is identical or similar to a trademarked name, ATF considers whether the criteria set forth in section 4.25a are met, whether the rulemaking record supports the use of the name for the designated area, and whether the use of such name would be deceptive or likely to create a misleading impression as to the product's origin. The existence of a trademark is one factor in determining whether the use of a particular name is misleading to consumers.

In the case of the name ''Santa Rita Hills,'' ATF finds that Federal registration of the term ''Santa Rita'' under the Lanham Act does not limit ATF's authority to establish a viticultural area known as ''Santa Rita Hills.'' First, as previously indicated, the petition satisfies the requirements of 27 CFR 4.25a. Second, no evidence in the rulemaking record or otherwise based on our experience in administering and enforcing the use of viticultural area designations, indicates that the name ''Santa Rita Hills'' would be misleading under the standard of the Federal Alcohol Administration Act, 27 U.S.C. 205(e)(1). As previously stated, numerous labels bearing the name ''Santa Rita'' in one form or another have already been approved (from the United States, Chile, and Italy) and there has been no evidence or other indication that establishes that consumers are confused as to the respective products' origins.

The fact that imported products are required to state the words ''Imported by'' followed by the name and address of the party responsible for importation would, in the case of a product with a ''Santa Rita Hills'' appellation, signal to consumers that the product is domestically produced rather than Chilean in origin. The fact imported products are also required by Customs regulations to state the words ''Product of __'' followed by the country of origin, further identifies the origin of imported products to consumers, as distinct from domestic products. Likewise, the fact that domestic products are required to indicate the name and address of the bottler or packer, minimizes the likelihood of confusion between a ''Santa Rita Hills'' wine and a product of Santa Rita in Chile or any other place.

Finally, under trademark law, the mere existence of a trademark does not necessarily preclude others from indicating the geographic origin of their products where the name is used in a descriptive sense rather than a trademark sense. In the case of a ''Santa Rita Hills'' viticultural area, the name would be used on a label in a descriptive sense, to describe the product's appellation under the FAA Act.

ATF has determined that, under the ''misleading'' standard of the FAA Act, the use of the name ''Santa Rita Hills'' for this viticultural area is not likely to mislead the consumer. However, to the extent that a trademark holder believes that the depiction of a viticultural area name that contains all or part of a trademark results in an infringement, then that holder may pursue an infringement action to prevent and restrain the use of that viticultural area name by a winery on a wine label. The holder of the trademark would have to establish the likelihood of confusion based on the standard in the Lanham Act and the circumstances surrounding the presentation of the viticultural area name on the label. In cases where the trademark holder succeeds in establishing an infringement, then the ability to enjoin the continued use of that name by the winery ensures that the first in time right and exclusivity of rights of the trademark holder are protected. It must be noted that, in approving the name Santa Rita Hills for this viticultural area, ATF is not making any determination on whether the use of this name constitutes an infringement under the Lanham Act.

It should be emphasized that the Santa Rita winery in Chile will not necessarily be precluded from using the designation ''Santa Rita'' as a brand name on wine labels following issuance of this regulation. Pursuant to 27 CFR 4.39(i), a brand name of geographical significance may be used if it previously appeared on labels approved prior to July 7, 1986, and if the wine is also labeled with an appellation of origin (or some other statement which the Director finds to be sufficient to dispel the brand name's geographic connotation). Thus, the name ''Santa Rita'' may be used as a brand name where the wine meets the appellation requirements of the regulations and is labeled in a way that satisfies the regulatory requirements. As always, all labels are reviewed on a case-by-case basis to determine whether any particular label is likely to mislead consumers, including as to the origin of the product.

Finally, the comments raise questions about the application of the Paris Convention and the Agreement on Trade Related Aspects of Intellectual Property. Trademark rights mandated by these international obligations are implemented under the Lanham Act. Accordingly, any private rights in this area are available for pursuit as provided for by that Act.

In consideration of the above, ATF is adopting the name ''Santa Rita Hills'' in this final rule. ATF finds that the name ''Santa Rita Hills'' is appropriate to identify the viticultural area based upon all of the evidence in the petition and comments.

Evidence of Boundaries

The ''Santa Rita Hills'' AVA is located in Northern Santa Barbara County, California, east of Lompoc (U.S. Highway 1) and west of Buellton (U.S. Highway 101). Precise boundaries can be found on the five (5) U.S.G.S. Quadrangle maps (7.5 minute series originally dated 1959) submitted with the petition. On these maps, the Santa Rita Hills are the dominant central features of the area with its transverse (east/west) maritime throat stretching from Lompoc to a few miles west of the Buellton Flats. The Santa Rosa Hills to the south and the Purisima Hills to the north isolate the proposed area geographically and climatically.

Again, the U.S.G.S. Water-Resources Investigations Report 970–4056 describes the Santa Rita Upland Basin as being ''in hydrologic continuity with the Lompoc Plain, Lompoc Upland and Buellton Upland basins, but separated from the Santa Ynez River alluvium by non-water-bearing rocks.'' It goes on to state, ''[a]n ongoing U.S.G.S. study treats the Santa Rita Valley as a separate unit * * *'' and ''* * * the eastern surface drainage divide between Santa Rita and Lompoc basins was used as a ground-water divide by the U.S.G.S.''

Climate

The climatic features of the viticultural area and thus the varietals grown therein, set it apart from the Santa Ynez Valley AVA, which borders the viticultural area. The Santa Ynez Valley area east of U.S. Highway 101 is characterized by higher temperatures than the ''Santa Rita Hills'' AVA to the west, which has a cool climate and is thus more conducive to growing ''Region One'' cool-climate winegrape varietals. By contrast, the eastern area of the Santa Ynez Valley, a ''Region Two'' growing area, provides a warmer climate and is well known for the production of varietal winegrapes such as Cabernet Sauvignon, Cabernet Franc, Merlot, Sauvignon Blanc, Mourvedre, and other varietals that require a significantly higher temperature (degree days) for adequate ripening. The ''Santa Rita Hills'' AVA, to the west of U.S. Highway 101, is better known for varietals such as Chardonnay and Pinot Noir, which are the predominant winegrapes there. In addition, ambient temperature and evapotranspiration rates during veraison and ripening are disparate for the two adjacent viticultural locales. The average post-veraison ripening temperature is 14.7° F hotter within the Santa Ynez Valley AVA than in the ''Santa Rita Hills'' AVA to the west. Similarly, the heating degree day differential (with the base of 50° F) between the two areas is 61 heating degree days, indicating an annual 92 heating degree days in the western Lompoc boundary and an annual 153 heating degree days in the eastern Cachuma Lake boundary. These temperature differences are the result of a unique set of topographical, geological and climatic influences, particularly coastal in origin.

The ''Santa Rita Hills'' AVA is situated within the clearly defined east/west transverse maritime throat, and thus is susceptible to the ocean's cooling influence. This enables diurnal ocean breezes direct access to the coastal valleys between the Purisima Hills and the Santa Rosa Hills, which house the AVA. The coastal influence is not nearly as pronounced in the Santa Ynez Valley east of U.S. Highway 101 and the Buellton Flats. In addition, the proximity of the AVA to the Pacific Ocean fills the hills and valleys of the ''Santa Rita Hills'' AVA in the late night and early morning hours with coastal fog. This intensifies the cool-climate influence on varietal winegrape production between the geological boundaries of the Purisima Hills and the Santa Rosa Hills.

Soil

The soils of the Santa Rita Hills are broken down from an array of geological parent material, with the most common types being loams, sandy loams, silt loams, and clay loams. These soils are based on large percentages of dune sand, marine deposits, recent alluvium, river wash, and terrace deposits, which are shown on maps provided in the exhibits of the petition. Soil samples collected from selected sites within the ''Santa Rita Hills'' AVA and the adjacent Santa Ynez Valley AVA show a distinct difference resulting from a high percentage of alluvial and marine sand within the Santa Rita Hills area. While the soil samples from the ''Santa Rita Hills'' AVA show higher percentages of sand, silt and sandy loams, the soil samples from the eastern Santa Ynez Valley show a higher percentage of gravelly and clay loams. Also, soil analysis test results from several vineyards in the proposed ''Santa Rita Hills'' AVA conducted by various labs in the area support the distinct soil data claims.

Topography

The topography of the ''Santa Rita Hills'' AVA is distinct and isolated from the rest of the Pacific Coast, the Central Coast, and the Santa Ynez Valley east of U.S. Highway 101 and the Buellton Flats. The AVA is demarcated by the east-west ranges of the Purisma Hills on the north and the Santa Rosa Hills on the south, framing Santa Rita Hills. When surveying the land within Santa Rita Hills to determine what locales would be the outer ''edges,'' the petitioner states the following was taken into account: viticultural viability (primarily hillside and alluvial basin plantings) and the coastal influence suitable for cool-climate still winegrape production. The actual topography of the ''Santa Rita Hills'' AVA is an oak-studded, hill-laden maritime throat that runs east to west, a few miles east of Lompoc to a few miles west of Buellton Flats. The coastal influence enters from the west, through Lompoc, and abruptly loses its influence at the eastern boundary, as demarcated on the enclosed U.S.G.S. maps. Elevations within the proposed boundary range from near sea-level to ridge-line 1800 feet above sea level.

ATF believes that the above statements relating to climate, soil, and topography are supported by the petition and distinguish the geographical features of the viticultural area from surrounding areas. Accordingly, ATF is establishing the ''Santa Rita Hills'' AVA as described below.

Boundary

The boundary of the ''Santa Rita Hills'' AVA may be found on the five (5) 1:24:000 scale U.S.G.S. Quadrangle 7.5–Minute Series maps included with the petition. The boundary is described in § 9.162.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)) and its implementing regulations, 5 CFR part 1320, do not apply to this Treasury Decision because no requirement to collect information is imposed.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new requirements are imposed. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this regulation is not subject to the analysis required by this Executive Order.

Drafting Information

The author of this document is Joyce A. Drake, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.162 to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

§ 9.162 Santa Rita Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Santa Rita Hills.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Santa Rita Hills viticultural area are five (5) U.S.G.S. Quadrangle 7.5 Minute Series maps titled:

(1) ''Lompoc, Calif.,'' edition of 1959 (photorevised in 1982).

(2) ''Lompoc Hills, Calif.,'' edition of 1959 (photoinspected 1971).

(3) ''Los Alamos, Calif.,'' edition of 1959.

(4) ''Santa Rosa Hills, Calif.,'' edition of 1959 (photoinspected 1978).

(5) ''Solvang, Calif.,'' edition of 1959 (photorevised 1982).

(c) *Boundary.* The ''Santa Rita Hills'' viticultural area is located within Santa Barbara County, California. The boundary is as follows:

(1) The beginning point is found on the Solvang, California U.S.G.S. Quadrangle map at an unnamed hilltop, elevation 1600 feet, in section 27, T.6N, R. 32W, on the Solvang, Calif., Quadrangle U.S.G.S. map.

(2) Then proceed north and slightly west 2.3 miles to an unnamed hilltop elevation 1174 feet, Section 15, T.6N., R. 32W.

(3) Proceed west and slightly north 1.85 miles to an unnamed hilltop elevation 899 feet within the heart of the Santa Rosa Land Grant, T.7N., R. 32W, on the Santa Rosa Hills, Calif., Quadrangle U.S.G.S. map.

(4) Proceed north approximately 2 miles to an unnamed hilltop elevation 1063 feet within the northeastern part of the Santa Rosa Land Grant, T.7N, R. 32W, on the Los Alamos, Calif., Quadrangle U.S.G.S. map.

(5) Proceed northwest 1.1 miles to an unnamed hilltop elevation 961 feet. Section 29, T.7N., R. 32W.

(6) Proceed north and slightly east 1.1 miles to an unnamed elevation 1443 feet. Section 20, T. 7N., R. 32W.

(7) Proceed west 1.4 miles to an unnamed hilltop elevation 1479 feet. Section 24, T.7N., R. 33W.

(8) Proceed north 1.2 miles to an unnamed hilltop elevation 1705 feet. Section 13, T.7N., R. 33W.

(9) Proceed northwest approximately 2 miles to an unnamed hilltop elevation 1543. Section 10, T.7N., R. 33W.

(10) Proceed west and slightly south 1.6 miles to an unnamed hilltop elevation 935 feet within the northern section of the Santa Rosa Land Grant. T.7N., R. 33W.

(11) Proceed south by southwest 1.5 miles to an unnamed hilltop elevation 605 feet in the northern section of the Santa Rosa Land Grant. T.7N., R. 33W.

(12) Proceed west by southwest approximately 2 miles to the point where California Highway 246 intersects with the 200-foot elevation contour line comprising the western border of the Santa Rita Hills, within the Santa Rosa Land Grant. T.7N., R. 34W, on the Lompoc, Calif., Quadrangle U.S.G.S. map.

(13) Proceed following the 200 foot elevation contour line south along the western border of the Santa Rita Hills to the extreme southern tip of the 200 foot elevation contour that is .6 miles due west of an unnamed hilltop 361 feet in elevation in the Canada de Salispuedes Land Grant. T.6N., R. 34W.

(14) Proceed southeast 2.35 miles to an unnamed hilltop elevation 1070 feet. Section 18, T.6N., R. 33W, on the Lompoc Hills, Calif., Quadrangle U.S.G.S. map.

(15) Proceed east and slightly south 1.95 miles to an unnamed hilltop elevation 921 feet. Section 16, T.6N., R. 33W, on the Santa Rosa Hills, Calif., Quadrangle U.S.G.S. map.

(16) Proceed east by southeast 1.35 miles to an unnamed hilltop elevation 1307 feet at intersection between Sections 22 and 23. T.6N., R. 33W.

(17) Proceed east 2.35 miles to an unnamed hilltop elevation 1507 feet in the southern area of the Santa Rosa Land Grant. T.6N., 32W.

(18) Proceed east by southeast 2.1 miles to an unnamed hilltop elevation 1279 feet in the southern area of the Santa Rosa Land Grant. T.6N., 32W.

(19) Then proceed east by southeast 1.45 miles to the point of the beginning.

Signed: May 25, 2001.

Bradley A. Buckles,

Director.

Timothy E. Skud,

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

[FR Doc. 01–13645 Filed 5–30–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 18, 19 and 24

[T.D. ATF–455; Ref: Notice No. 823]

RIN 1512–AB59

Volatile Fruit-Flavor Concentrate Shipments and Alternation With Other Premises (2000R–290P)

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

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule specifically authorizes the transfer of volatile fruit-flavor concentrate (VFFC) unfit for beverage use from one VFFC plant to another for further processing and permits facilities to be alternately used as a VFFC plant, a distilled spirits plant or a bonded wine cellar. This rule allows greater flexibility in the production processes and in the equipment and facilities of VFFC plants.

DATES: Effective date: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Robert P. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW, Washington, DC 20226; (202) 927–8210; or alctob@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

Previously, ATF received a request to vary from the regulations in 27 CFR part 18, Production of Volatile Fruit Flavor Concentrate. This request was to allow the transfer of volatile fruit-flavor concentrate (VFFC) that is unfit for beverage use for further processing from one proprietor of a volatile fruit concentrate plant to another. The current regulation regarding transfer of volatile fruit-flavor concentrate (27 CFR 18.54(a)) does not provide for such a transfer.

Another current regulation (27 CFR 18.51) allows the transfer to a producer's premises of ''processing material'' that is produced elsewhere subject to certain restrictions and recordkeeping requirements. However, the definition of ''processing material'' (27 CFR 18.11) does not include concentrate that is intended for further processing. Furthermore, the regulation at 27 CFR 18.56 allows only a VFFC proprietor to receive shipments of returned concentrate previously shipped by such proprietor.

Consequently, ATF proposed to amend the regulations in 27 CFR 18.56 to allow such transfers subject to the

existing recordkeeping and reporting requirements of 27 CFR 18.56 (Notice No. 823, 61 FR 30017). At this time, ATF also solicited comments concerning other changes to part 18. Specifically, ATF requested comments about whether to allow facilities to be operated alternately as a VFFC plant, a distilled spirits plant, a bonded winery or other regulated facility.

Transfer of Concentrate

ATF is adopting the proposed regulations to allow VFFC proprietors to transfer, for further processing, volatile fruit-flavor concentrate that is unfit for beverage use. This change in the regulations allows VFFC proprietors greater flexibility without jeopardizing the revenue.

Alternation of VFFC Premises

In response to our request for other possible changes in Notice 823 (61 FR 30017), Distilled Spirits Council of the United States (DISCUS) supported the proposal for temporarily alternating VFFC plant with a distilled spirits plant, bonded wine cellar or other regulated facility. As a result, we have written regulations to allow facilities to be operated alternately as a VFFC plant, a distilled spirits plant, or a bonded wine cellar. We believe that limiting alternations between a VFFC and a distilled spirits plant or a bonded winery should address the present needs of all proprietors. However, ATF will consider any future request to alternate a VFFC plant with other regulated facilities.

In addition, DISCUS recommended that the Bureau ''streamline'' the evidence required for such alternations by using batch records. Under the provisions of the Internal Revenue Code (IRC), each type of regulated operation (for example, a distilled spirits plant, bonded wine cellar or volatile fruit-flavor concentrate plant) is subject to separate and distinct regulatory requirements. These regulatory requirements have been tailored to the particular operation being conducted in order to protect the revenue. Where particular premises are being alternated, ATF has found that the notice of alternation of premises is necessary to protect the revenue and is not unduly burdensome on businesses. The notice identifies the portion of the premises being alternated and identifies the operations that will occur and the specific time during which they will occur. Without this information, ATF would, at best, have difficulty in determining which type of operation was occurring at any particular place or time. Also, batch records would not necessarily allow ATF to verify records, reports, tax returns, and bonds that are required to be filed under the IRC regulations, thus presenting a jeopardy to the revenue. Accordingly, ATF opposes the use of batch records to evidence alternation of premises.

Regulatory Flexibility Act

In accordance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is hereby certified that this final rule will not have a significant impact on a substantial number of small entities. This final rule liberalizes the regulations related to volatile fruit-flavor concentrate plants. Accordingly, a regulatory flexibility analysis is not required. As required by 26 U.S.C. 7805(f), a copy of this final rule was sent to the Chief Counsel for Advocacy of the Small Business Administration. No comments were received.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

Paperwork Reduction Act

The collections of information contained in this final rule have been reviewed and approved under the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)). The Office of Management and Budget (OMB) has issued control number 1512–0046 for this collection of 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 valid control number assigned by OMB.

The additional collection of information in this regulation is in 27 CFR 18.39, 18.40 and 18.42. This information is required to make sure that a proprietor of a volatile fruit-flavor concentrate plant is properly qualified to alternate to a distilled spirits plant or a bonded wine cellar, and to record alternations of premises. ATF uses this information to ensure that persons are qualified and that operations are conducted in accordance with law and regulations. The collection of information is mandatory. The likely respondents may include small businesses or organizations.

ATF estimates the burden of qualification and recordkeeping at ten (10) additional respondents and an additional one hour per respondent. ATF estimates that the total annual reporting and/or recordkeeping burden under control numbers 1512–0046 is 40 hours.

Administrative Procedure Act

This final rule relieves restrictions on the operations of volatile fruit-flavor concentrate plants by allowing certain transfers of high-proof concentrate unfit for beverage use and providing for the alternation of VFFC plants with distilled spirits plants or bonded wine cellars. Consequently, it is exempt from the delayed effective date provisions of 5 U.S.C. 553(d).

Drafting Information

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

List of Subjects

27 CFR Part 18

Alcohol and alcoholic beverages, Fruits, Labeling, Reporting and recordkeeping requirements, Spices and flavorings.

27 CFR Part 19

Administrative practice and procedure, Authority delegations (Government agencies), Chemicals, Claims, Custom duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Security measures, Spices and flavorings, Surety bonds, Transportation, Warehouses, Wine.

27 CFR Part 24

Administrative practice and procedure, Authority delegations (Government agencies), Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

Authority and Issuance

For the reasons set out in the preamble, 27 CFR Parts 18, 19 and 24 are amended as follows:

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATE

Paragraph 1. The authority citation for part 18 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5171–5173, 5178, 5179, 5203, 5351, 5354, 5356, 5511, 5552, 6065, 7805.

Par. 2. Section 18.11 is amended by adding the term ''distilled spirits plant'' in alphabetical order as follows:

§ 18.11 Meaning of terms.

* * * * *

Distilled spirits plant. An establishment qualified under 27 CFR part 19, excluding alcohol fuel plants, for producing, warehousing, or processing distilled spirits (including denatured distilled spirits).

* * * * *

Par. 3. A new section 18.39 is added before the heading ''Subpart E—Operations'' to read as follows:

§ 18.39 Qualification to alternate a volatile fruit-flavor concentrate plant and a distilled spirits plant.

A proprietor of a volatile fruit-flavor concentrate plant operating a contiguous distilled spirits plant may alternate the use of such premises between the two functions through extension and curtailment by filing with the appropriate ATF officer the following information:

(a) ATF Form 27–G (5520.3) and ATF Form 5110.41 to cover the proposed alternation of premises;

(b) A special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment and clearly depicting all buildings, floors, rooms, areas, equipment and pipe lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence; and

(c) A bond or a consent of surety to cover the proposed alternation of premises.

(Approved by the Office of Management and Budget under control number 1512–0046)

Par. 4. A new section 18.40 is added before the heading ''Subpart E—Operations'' to read as follows:

§ 18.40 Qualification to alternate volatile fruit-flavor concentrate plant and bonded wine cellar.

A proprietor of a volatile fruit-flavor concentrate plant operating a contiguous bonded wine cellar may alternate the use of each premise by extension and curtailment by filing with the appropriate ATF officer the following information:

(a) ATF Form 27–G (5520.3) and ATF Form 5120.25 to cover the proposed alternation of premises;

(b) A special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment and clearly depicting all buildings, floors, rooms, areas, equipment and pipe lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence; and

(c) A bond or a consent of surety to cover the proposed alternation of premises.

(Approved by the Office of Management and Budget under control number 1512–0046)

Par. 5. A new section 18.41 is added before the heading ''Subpart E—Operations'' to read as follows:

§ 18.41 Separation of premises.

The appropriate ATF officer may specify additional means of separating the volatile fruit-flavor concentrate plant from a distilled spirits plant or bonded wine cellar premises.

Par. 6. A new section 18.42 is added before the heading ''Subpart E—Operations'' to read as follows:

§ 18.42 Record of alternation.

After approval of the qualifying documents for the alternation of premises, the proprietor must execute a record each time that the premises are alternated. The record will contain the following information:

(a) Identification assigned by ATF, including the plant or registry number, of the volatile fruit-flavor concentrate plant and the distilled spirits plant or bonded wine cellar;

(b) Effective date and time of proposed change; and

(c) Description of the alternation that identifies the diagrams depicting the premises before and after the alternation.

(Approved by the Office of Management and Budget under control number 1512–0046)

Par. 7. A new section 18.43 is added in subpart D to read as follows:

§ 18.43 Conditions of Alternation.

(a) *Curtailment of volatile fruit-flavor concentrate plant.* The proprietor must remove all concentrate, fruit mash, and juice from the volatile fruit-flavor concentrate plant alternated to a distilled spirits plant or to a bonded wine cellar premises, unless such concentrate, fruit mash, or juice is being simultaneously transferred to the distilled spirits plant or bonded wine cellar premises.

(b) *Extension of volatile fruit-flavor concentrate premises and curtailment of distilled spirits plant.* The proprietor must remove all spirits, denatured spirits, articles and wine, except for concentrate, fruit mash, or juice that is being simultaneously transferred to the volatile fruit-flavor concentrate plant.

(c) *Extension of volatile fruit-flavor concentrate premises and curtailment of bonded wine cellar premises.* The proprietor must remove all wine and spirits from the alternated bonded wine cellar premises, except for concentrate, fruit mash, or juice that is being simultaneously transferred to the volatile fruit-flavor concentrate plant.

Par. 8. Section 18.56 is revised to read as follows:

§ 18.56 Receipt of concentrate.

(a) *General.* The proprietor of a concentrate plant may accept the return of concentrate that the proprietor shipped. In addition, concentrate that is unfit for beverage use may be received from another concentrate plant for further processing in accordance with this part.

(b) *Record of concentrate received.* When concentrate is received, the proprietor must record the receipt, including the name of the consignor and a notation regarding any loss in transit or other discrepancy.

(Approved by the Office of Management and Budget under control number 1512–0098)

PART 19—DISTILLED SPIRITS PLANTS

Par 9. The authority citation for part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 10. A new section 19.207 is added before the undesignated center heading of ''Permanent Discontinuance of Business'' to read as follows:

§ 19.207 Alternate use of distilled spirits plant and volatile fruit-flavor concentrate premises.

If a proprietor of distilled spirits plant wishes to use all or a portion of such premises alternately as a volatile fruit-flavor concentrate plant or vice-a-versa, the proprietor must comply with the requirements of §§ 18.39 and 18.41 through 18.43 of this title.

PART 24—WINE

Par. 11. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 12. A new sentence is added at the end of § 24.135(a) to read as follows:

§ 24.135 Wine premises alternation.

(a) *General.* * * * If a proprietor of a bonded wine cellar or winery wishes to use all or a portion of such premises alternately as a volatile fruit-flavor concentrate plant or vice-a-versa, the proprietor must comply with the requirements of §§ 18.40 through 18.43 of this title.

* * * * *

Signed: March 6, 2001.

Bradley A. Buckles,

Director.

Approved: March 14, 2001.

Timothy E. Skud,

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

[FR Doc. 01–13630 Filed 5–30–01; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–041]

RIN 2115–AE47

Drawbridge Operation Regulations: Jamaica Bay and connecting waterways, NY.

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulations which govern the Beach Channel Railroad Bridge, at mile 6.7, across Jamaica Bay in New York. This temporary change to the drawbridge operation regulations will allow the bridge owner to require a twenty-four hours advance notice for bridge openings from 6 a.m. to 7 p.m., on each Monday, Wednesday and Friday, from May 18, 2001 through November 30, 2001. This action is necessary to facilitate necessary maintenance at the bridge.

DATES: This rule is effective on May 18, 2001 through November 30, 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 (CGD01–01–041) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Project Officer, First Coast Guard District, (212) 668–7195.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 6, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Jamaica Bay and Connecting Waterways, New York, in the **Federal Register** (66 FR 18221). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held. Pursuant to 5 U.S.C. 553, good cause exists for making this regulation effective in less than 30 days after publication in the **Federal Register**. The Coast Guard discussed the advance notification periods with all known waterway users likely to be impacted by this change in operating regulations prior to publication of the notice of proposed rulemaking and none objected. In fact, local waterway users have voluntarily complied with the advance notice requirement since April 30, 2001. The NPRM specified that we anticipated that the final rule would become effective less than 30 days following publication. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to perform this lengthy project during the spring, summer and fall months when ambient air temperatures and environmental conditions permit effective sand blasting and painting.

Background and Purpose

The Beach Channel Railroad Bridge, at mile 6.7, across Jamaica Bay has a vertical clearance of 26 feet at mean high water and 31 feet at mean low water. The existing regulations require the draw to open on signal at all times.

The bridge owner, the New York City Transit Authority, asked the Coast Guard to temporarily change the drawbridge operation regulations to require at least a twenty-four hours advance notice be given to open the Beach Channel Railroad Bridge for thirty-one weeks on each Monday, Wednesday and Friday in order to facilitate structural repairs and painting at the bridge. The Coast Guard contacted all known waterway users to advise them of the proposed closures. No objections or negative comments were received in response this closure.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking. The effective date of this final rule will be changed to the date of signature of this final rule as the weekend closure dates contemplated in the NPRM have already passed. This change will reduce rather than enlarge the duration of the temporary 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). This conclusion is based on the fact that the bridge will still continue to open daily for navigation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. ''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 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 conclusion is based on the fact that the bridge will still continue to open for navigation daily.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those 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 M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this final rule.

Indian Tribal Governments

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

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 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. From May 18, 2001 through November 30, 2001, section 117.795 is temporarily amended, by adding a new paragraph (e), to read as follows:

§ 117.795 Jamaica Bay and connecting waterways.

* * * * *

(e) The Beach Channel Railroad Bridge, at mile 6.7, shall open on signal after at least a twenty-four hours advance notice is given from 6 a.m. to 7 p.m., on each Monday, Wednesday, and Friday, from May 18, 2001 through November 30, 2001. Advance notice may be given by calling the number posted at the bridge.

Dated: May 18, 2001.

Gerald M. Davis,

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

[FR Doc. 01–13640 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–00–248]

RIN 2115–AA97

Safety Zone: Triathlon, Ulster Landing, Hudson River, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual Hudson Valley Triathlon swim on the Hudson River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

DATES: This rule is effective July 2, 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 (CGD01–00–248) and are available for inspection or copying at room 204, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, NY 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 2, 2001, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Triathlon, Ulster Landing, Hudson River, NY in the **Federal Register** (66 FR 13030). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard is establishing a permanent safety zone for the annual Hudson Valley Triathlon swim on the Hudson River. The safety zone encompasses all waters of the Hudson River, in the vicinity of Ulster Landing, bound by the following points: 42°00′03.7″N, 073°56′43.1″W; thence to 41°59′52.5″N, 073°56′34.2″W; thence to 42°00′15.1″N, 073°56′25.2″W; thence to 42°00′05.4″N, 073°56′41.9″W (NAD 1983); thence along the shoreline to the point of beginning.

The safety zone is effective annually from 6 a.m. until 9 a.m. on the first Sunday after July 4th. The safety zone prevents vessels from transiting a portion of the Hudson River. It is needed to protect swimmers and boaters from the hazards associated with 500 swimmers competing in a confined area of the Hudson River. Recreational vessels can still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone. Commercial vessels will be precluded from transiting the area because the safety zone encompasses about 800 yards of Barrytown Reach and there is no viable alternative route. No vessel may enter the safety zone without permission from the Captain of the Port, New York.

Special Local Regulations have been published for this event in 33 CFR 100.121 for 7 a.m. to 9 a.m. on the same date. The location of this event was moved 3.5 nautical miles north in the summer of 2000 to the new location in the northern area of Barrytown Reach. A Temporary final rule was required for the 2000 event. This new location encompasses about 800 yards of Barrytown Reach and is about 1,000 yards smaller than the permanent area in 33 CFR 100.121.

This safety zone covers the minimum area needed and imposes the minimum restrictions necessary to ensure the protection of all swimmers and vessels. Public notifications will be made prior to the event via the Local Notice to Mariners.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. No changes were made to this rulemaking.

Regulatory Evaluation

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

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

This safety zone temporarily closes a portion of the Hudson River to vessel traffic; however, the impact of this regulation is expected to be minimal for the following reasons: This is an annual marine event currently published in 33 CFR 100.121; this safety zone will close a smaller portion of the Hudson River during this event; this zone is only 3.5 miles north of the current zone; the event is limited in duration; the event occurs early on a Sunday morning, which historically is a time when there is less commercial traffic transiting the area; advance advisories will be made to allow the maritime community to schedule transits before and after the event; the event has been held for 4 years in succession and is therefore anticipated annually; and recreational vessels may still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone.

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 vessels intending to transit or anchor in a portion of the Hudson River during the time this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this is an annual marine event currently published in 33 CFR 100.121; this safety zone will close a smaller portion of the Hudson River during the event; the event is limited in duration; it is expected that no more than 1 or 2 commercial vessels will be affected by this event early on a Sunday morning; advance advisories will be made to allow the maritime community to schedule transits before and after the event; the event has been held for 4 years in succession and is therefore anticipated annually; and recreational vessels may still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone.

Assistance for Small Entities

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

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping 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 § 165.170 to read as follows:

§ 165.170 Safety Zone: Triathlon, Ulster Landing, Hudson River, NY.

(a) *Regulated area.* The following area is a safety zone: All waters of the Hudson River, in the vicinity of Ulster Landing, bound by the following points: 42°00′03.7″N, 073°56′43.1″W; thence to 41°59′52.5″N, 073°56′34.2″W; thence to 42°00′15.1″N, 073°56′25.2″W; thence to 42°00′05.4″N, 073°56′41.9″W (NAD 1983); thence along the shoreline to the point of beginning.

(b) *Effective period.* This section is in effect annually from 6 a.m. until 9 a.m. on the first Sunday after July 4th.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) No vessels will be allowed to transit the safety zone without the permission of the Captain of the Port, New York.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 14, 2001.

R.E. Bennis,

Rear Admiral, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 01–13643 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AK12

Schedule for Rating Disabilities: Disabilities of the Liver

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (38 CFR part 4) by revising the portion of the Digestive System that addresses disabilities of the liver. The intended effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

DATES: *Effective Date:* This rule is effective July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: As part of its review of the Schedule for Rating Disabilities (38 CFR part 4), VA published a proposal to amend that portion of the Schedule pertaining to liver disabilities. The proposed rule was published in the **Federal Register** on August 7, 2000 (65 FR 48205). Interested persons were invited to submit written comments on or before October 6, 2000. We received comments from the Disabled American Veterans and one VA employee.

In the preamble of the proposed rule, we proposed to delete diagnostic code 7313 but inadvertently did not include this change in the amendatory instructions portion of the document. No comment was made on this proposed change which is now reflected in the final rule.

One commenter questioned our proposal to provide percentage evaluation levels of 10, 30, 50, 70, and 100% for diagnostic code 7312 (cirrhosis of the liver, primary biliary cirrhosis, or cirrhotic phase of sclerosing cholangitis) and levels of zero, 10, 20, 40, 60, and 100% for diagnostic codes 7345 (chronic liver disease without cirrhosis (including hepatitis B, chronic active hepatitis, autoimmune hepatitis, hemochromatosis, drug-induced hepatitis, etc., but excluding bile duct disorders and hepatitis C)) and 7354 (hepatitis C (or non-A, non-B hepatitis)). The commenter felt all of these conditions should have the same evaluation levels because the symptom criteria are almost identical.

We do not adopt the comment for the following reasons. The symptom criteria for cirrhotic and non-cirrhotic liver diseases are not nearly identical. The evaluation criteria proposed for cirrhotic diseases (diagnostic code 7312) are based on largely objective signs, symptoms, and complications of cirrhosis, such as jaundice, weakness, weight loss, ascites, hepatic encephalopathy, and hemorrhage. The evaluation levels for cirrhotic diseases have not been changed, except for the addition of the 10 percent rating recommended by our consultants. The evaluation criteria proposed for non-cirrhotic diseases (diagnostic codes 7345 and 7354) are based primarily on specific signs and symptoms of hepatitis or other chronic liver disease without cirrhosis, such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain. Alternatively, non-cirrhotic liver disease and hepatitis C may be rated or on an alternative set of criteria based on incapacitating episodes if it will result in a higher evaluation. VA proposed in the **Federal Register** on February 24, 1996 (62 FR 8204) to also rate intervertebral disc syndrome based on incapacitating episodes. To maintain internal consistency in the rating schedule, we are using the same percentage evaluation levels that we proposed for rating intervertebral disc syndrome when it is based on incapacitating episodes. The evaluation levels for cirrhotic diseases, however, are not based on incapacitating episodes. Accordingly, we do not believe using the same levels of evaluation for such diseases is appropriate, and we have not adopted the commenter's suggestion.

The same commenter suggested that we provide criteria for diagnostic code 7312 based on incapacitating episodes, as we have done for hepatitis or other chronic liver disease without cirrhosis.

Cirrhosis results in liver scarring and progressive liver damage that eventually leads to liver decompensation with the complications of hemorrhage, encephalopathy, ascites, or jaundice. Treatment is aimed at preventing the progression of liver damage, but it cannot reverse it, because it is permanent. Since cirrhosis does not have an overall episodic course, although its complications may occur intermittently once it has reached the decompensated stage, an alternative set of criteria based on incapacitating episodes is not appropriate, and we have not adopted this suggestion.

Section 4.112 currently addresses weight loss in general terms for purposes of application to § 4.114. We proposed to revise this section by defining these terms in more detail and referencing them to the individual's ''baseline weight.'' For example, we proposed to define ''substantial weight loss,'' as meaning a loss of greater than 20 percent of the individual's baseline weight, sustained for three months or longer. One commenter recommended that we include some guidance for determining baseline weight because a

small variation in the way the baseline weight is determined could make a material difference in the disability rating assigned.

In response to this comment, we have added a sentence to § 4.112 defining ''baseline weight'' as the average weight for the two-year-period preceding onset of the disease. This will assure that the usual weight over a reasonable period of time before the disease began is the basis of determining subsequent weight loss.

We proposed to revise the criteria for evaluating residuals of injury to the liver (diagnostic code 7311) from rating under the criteria for peritoneal adhesions to rating as adhesions of peritoneum (diagnostic code 7301), cirrhosis of liver (diagnostic code 7312), or chronic liver disease without cirrhosis (diagnostic code 7345), depending on the specific residuals. One commenter stated that individuals may have both liver damage and peritoneal adhesions, and that we should therefore indicate that these residuals should be separately evaluated and then combined, rather than evaluating based on only one type of residual.

We agree that this should be clarified, and have revised the criteria to ''Depending on the specific residuals, separately evaluate as adhesions of peritoneum (diagnostic code 7301), cirrhosis of liver (diagnostic code 7312), and chronic liver disease without cirrhosis (diagnostic code 7345).''

One commenter suggested we alter the order of presentation of the criteria and punctuation for diagnostic code 7312 at the 100-percent evaluation level from ''With one of the following refractory to treatment: ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy (erosive gastritis), or; with persistent jaundice, generalized weakness, and substantial weight loss'' to ''With persistent jaundice, generalized weakness, and substantial weight loss; or with one of the following refractory to treatment: ascites, hepatic encephalopathy, hemorrhage from varices or portal gastropathy (erosive gastritis).'' The commenter recommended similar punctuation changes under diagnostic codes 7345 and 7354.

For the sake of clarity, we have rearranged the order of the criteria under diagnostic code 7312, but prefer to retain the comma and semicolon to distinguish the criteria. We have used this method of punctuation in other sections of the rating schedule (*e.g.* 38 CFR 4.88b, diagnostic code 6314 and 38 CFR 4.104, diagnostic code 7000) to emphasize a clear separation of alternative criteria and wish to be consistent in punctuation. A change here might imply a difference in meaning that we do not intend. We have not adopted the suggested punctuation changes for diagnostic codes 7345 and 7354 for the same reasons.

One commenter felt that, in the proposed criteria for a 100-percent evaluation under diagnostic code 7312, it was unclear whether the word ''persistent'' modifies all 3 manifestations in the phrase ''persistent jaundice, generalized weakness, and substantial weight loss,'' and suggested that we clarify.

There was no intent that ''persistent'' modify all three nouns. To assure clarity, we have revised that phrase each time it appears to read ''generalized weakness, substantial weight loss, and persistent jaundice.''

One commenter expressed concerns about the criteria under diagnostic codes 7345 and 7354 for a 100-percent evaluation. The criteria we proposed are: ''Near-constant incapacitating symptoms (such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain).'' For a 60-percent evaluation, we proposed: ''Incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least six weeks during the past 12-month period, but not occurring constantly, or; with daily fatigue, malaise, and anorexia, with substantial weight loss (or other indication of malnutrition), and hepatomegaly.'' The commenter felt that the term ''incapacitating symptoms'' under the 100-percent evaluation criteria has essentially the same meaning as ''incapacitating episodes'' at other levels of evaluation, and that a veteran would have to be bedridden to meet the criteria for a 100-percent evaluation. The commenter said this does not conform to 38 U.S.C. 1155, which states that the rating schedule must be based on the average impairment of earning capacity.

A note under diagnostic codes 7345 and 7354 in the proposed rule defines the term ''incapacitating episodes'' for purposes of those codes. That definition is necessary because there is no generally understood meaning of ''incapacitating episodes'' as it is used for evaluation purposes. We have therefore defined the term to mean episodes of sudden onset and limited duration, but severe enough to require bed rest and treatment by a physician. As used in the rating schedule, the term ''near-constant incapacitating symptoms'' refers to symptoms that, because of their severity and persistence, render the average individual unable to work. The word ''incapacitating'' is defined as ''to make unable or unfit; esp., to make incapable of normal activity; disable.'' (Webster's New World Dictionary, Third College Edition, 681). Therefore, the term ''incapacitating symptoms'' does not require bed rest. To eliminate any possible confusion, however, we have changed the term ''near-constant incapacitating symptoms'' at the 100-percent level to ''near-constant debilitating symptoms.'' Use of the analogous term ''debilitating'' will eliminate any possible confusion that might arise from the use of the terms ''incapacitating episodes'' and ''incapacitating symptoms.''

The same commenter objected to the retrospective nature of the criteria for diagnostic codes 7345 and 7354 when evaluation is based on incapacitating episodes on the grounds that a veteran might have to endure financial hardship for twelve months or more before being adequately compensated.

In the great majority of cases, veterans with non-cirrhotic liver disease will be evaluated using the criteria based on signs and symptoms of liver disease. Using those criteria does not require a 12-month period of observation before assigning an evaluation because they are based on current medical evidence of the chronic severity of the disease. The criteria based on incapacitating episodes, although they will be used infrequently, provide an avenue for a potentially higher evaluation. It will often not be necessary to wait 12 months in order to rate a veteran based upon incapacitating episodes if, for example, the medical evidence of record indicates how many episodes the veteran has experienced in the previous 12 months, or if there are incapacitating episodes of sufficient duration to allow the assignment of a higher evaluation than one based on symptoms, even though they have occurred over a less than 12-month period. However, in order to indicate more clearly that using signs and symptoms is the primary method of evaluating the severity of these diseases, we have reversed the order of the two sets of alternative criteria for diagnostic codes 7345 and 7354 so that signs and symptoms, *i.e.*, the primary basis of evaluation, comes first.

As an extension of the comment objecting to the retrospective nature of the criteria for diagnostic codes 7345 and 7354, the same commenter said that more frequent ratings would be needed in these cases in order to achieve stable evaluations.

As we explained above, most veterans will be rated on the basis of the signs and symptoms of liver disease, and these are not likely to change rapidly because the course of these liver diseases is commonly slow and prolonged, at least until the latter stages of disease. Most persons with non-cirrhotic liver disease and hepatitis C experience a steadily declining course. Periods of incapacitating episodes followed by substantial improvement or rapid decline would be very unusual. Given the course of these diseases, it is unlikely that re-evaluations would be needed more frequently than with other disabilities, and we have made no change based on this comment.

The same commenter urged that a better way (other than using incapacitating episodes as the basis of evaluation) be found to evaluate the severity of diseases that are characterized by recurring exacerbations. The commenter suggested no alternative method of evaluating recurring exacerbations. We believe that evaluating them based on incapacitating episodes is a fair and reasonable way to assess them, and will promote consistency across the rating schedule, in that different diseases will be rated at the same level if they result in the same duration of periods of incapacitation.

VA appreciates the comments submitted in response to the proposed rule. Based on the rationale stated in the proposed rule and in this document, the proposed rule, is adopted with the changes noted above.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

This regulatory amendment has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

(The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.)

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: March 5, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

2. Section 4.112 is revised to read as follows:

§ 4.112 Weight Loss.

For purposes of evaluating conditions in § 4.114, the term ''substantial weight loss'' means a loss of greater than 20 percent of the individual's baseline weight, sustained for three months or longer; and the term ''minor weight loss'' means a weight loss of 10 to 20 percent of the individual's baseline weight, sustained for three months or longer. The term ''inability to gain weight'' means that there has been substantial weight loss with inability to regain it despite appropriate therapy. ''Baseline weight'' means the average weight for the two-year-period preceding onset of the disease.

(Authority: 38 U.S.C. 1155)

3. Section 4.114 is amended by:

A. Revising diagnostic codes 7311, 7312, 7343, 7344, and 7345.

B. Removing diagnostic code 7313.

C. Adding diagnostic codes 7351 and 7354.

D. Adding a new authority citation at the end of the section.

The revisions and additions read as follows:

§ 4.114 Schedule of ratings-digestive system.

* * * * *

	Rating
7311 Residuals of injury of the liver:	
Depending on the specific residuals, separately evaluate as adhesions of peritoneum (diagnostic code 7301), cirrhosis of liver (diagnostic code 7312), and chronic liver disease without cirrhosis (diagnostic code 7345)	
7312 Cirrhosis of the liver, primary biliary cirrhosis, or cirrhotic phase of sclerosing cholangitis:	
Generalized weakness, substantial weight loss, and persistent jaundice, or; with one of the following refractory to treatment: ascites, hepatic encephalopathy, hemorrhage from varices or portal gastropathy (erosive gastritis)	100
History of two or more episodes of ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy (erosive gastritis), but with periods of remission between attacks	70
History of one episode of ascites, hepatic encephalopathy, or hemorrhage from varices or portal gastropathy (erosive gastritis)	50
Portal hypertension and splenomegaly, with weakness, anorexia, abdominal pain, malaise, and at least minor weight loss	30
Symptoms such as weakness, anorexia, abdominal pain, and malaise	10
Note: For evaluation under diagnostic code 7312, documentation of cirrhosis (by biopsy or imaging) and abnormal liver function tests must be present.	
* * * * * * *	
7343 Malignant neoplasms of the digestive system, exclusive of skin growths	100
Note: A rating of 100 percent shall continue beyond the cessation of any surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residuals.	
7344 Benign neoplasms, exclusive of skin growths:	
Evaluate under an appropriate diagnostic code, depending on the predominant disability or the specific residuals after treatment	
7345 Chronic liver disease without cirrhosis (including hepatitis B, chronic active hepatitis, autoimmune hepatitis, hemochromatosis, drug-induced hepatitis, etc., but excluding bile duct disorders and hepatitis C):	
Near-constant debilitating symptoms (such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain)	100
Daily fatigue, malaise, and anorexia, with substantial weight loss (or other indication of malnutrition), and hepatomegaly, or; incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least six weeks during the past 12-month period, but not occurring constantly	60

Daily fatigue, malaise, and anorexia, with minor weight loss and hepatomegaly, or; incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least four weeks, but less than six weeks, during the past 12-month period	40
Daily fatigue, malaise, and anorexia (without weight loss or hepatomegaly), requiring dietary restriction or continuous medication, or; incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least two weeks, but less than four weeks, during the past 12-month period	20
Intermittent fatigue, malaise, and anorexia, or; incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least one week, but less than two weeks, during the past 12-month period	10
Nonsymptomatic	0

Note (1): Evaluate sequelae, such as cirrhosis or malignancy of the liver, under an appropriate diagnostic code, but do not use the same signs and symptoms as the basis for evaluation under DC 7354 and under a diagnostic code for sequelae. (See § 4.14.).

Note (2): For purposes of evaluating conditions under diagnostic code 7345, ''incapacitating episode'' means a period of acute signs and symptoms severe enough to require bed rest and treatment by a physician.

Note (3): Hepatitis B infection must be confirmed by serologic testing in order to evaluate it under diagnostic code 7345.

* * * * * * *

7351 Liver transplant:	
For an indefinite period from the date of hospital admission for transplant surgery	100
Minimum	30

Note: A rating of 100 percent shall be assigned as of the date of hospital admission for transplant surgery and shall continue. One year following discharge, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.

7354 Hepatitis C (or non-A, non-B hepatitis):	
With serologic evidence of hepatitis C infection and the following signs and symptoms due to hepatitis C infection:	
Near-constant debilitating symptoms (such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain)	100
Daily fatigue, malaise, and anorexia, with substantial weight loss (or other indication of malnutrition), and hepatomegaly, or; incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least six weeks during the past 12-month period, but not occurring constantly	60
Daily fatigue, malaise, and anorexia, with minor weight loss and hepatomegaly, or; incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least four weeks, but less than six weeks, during the past 12-month period	40
Daily fatigue, malaise, and anorexia (without weight loss or hepatomegaly), requiring dietary restriction or continuous medication, or; incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least two weeks, but less than four weeks, during the past 12-month period	20
Intermittent fatigue, malaise, and anorexia, or; incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least one week, but less than two weeks, during the past 12-month period	10
Nonsymptomatic	0

Note (1): Evaluate sequelae, such as cirrhosis or malignancy of the liver, under an appropriate diagnostic code, but do not use the same signs and symptoms as the basis for evaluation under DC 7354 and under a diagnostic code for sequelae. (See § 4.14.).

Note (2): For purposes of evaluating conditions under diagnostic code 7354, ''incapacitating episode'' means a period of acute signs and symptoms severe enough to require bed rest and treatment by a physician.

(Authority: 38 U.S.C. 1155)

[FR Doc. 01–13626 Filed 5–30–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN132–1a; FRL–6985–3]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to particulate matter (PM) emissions regulations for Illinois Cereal Mills, Incorporated (Illinois Cereal Mills). This facility is located in Marion County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulations on August 2, 2000 as an amendment to its State Implementation Plan (SIP). The revisions consist of the relaxation of one annual emission limit and the tightening of another limit. These SIP revisions should result in no change in the overall particulate emissions. Analysis showed that air quality will not be harmed from this change in particulate emissions.

DATES: This rule is effective on July 30, 2001, unless the EPA receives relevant adverse written comments by July 2, 2001. If adverse comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Indiana's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6524, E–Mail: rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean the EPA.

Table of Contents

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II. What are the limit changes from the current rules?
III. Analysis of supporting materials provided by Indiana.
IV. What are the environmental effects of these actions?
V. EPA rulemaking actions.
VI. Administrative requirements.

I. What Is the EPA Approving?

The EPA is approving revisions to the particulate matter emissions regulations for Illinois Cereal Mills in Marion County, Indiana. IDEM submitted the revised regulation on August 2, 2000 as an amendment to its SIP.

The revisions are the relaxation of one annual emission limit for a boiler and the tightening of another limit for the head house portion of a grain elevator. These SIP revisions result in no change in the overall PM emissions from the

Illinois Cereal Mills, Incorporated facility.

II. What Are the Limit Changes From the Current Rules?

Indiana has revised two long-term PM emissions limits for sources at Illinois Cereal Mills, Incorporated. Indiana has increased the annual emissions limit for the Cleaver Brooks Boiler from 0.7 tons per year (TPY) to 1.0 TPY, measured as total suspended particulate (TSP). Indiana has also decreased the annual emissions limit for the Head House Suction (Point #18) from 6.3 TPY to 6.0 TPY of TSP. The short-term emissions limits remain unchanged at 0.014 pounds per million British thermal units (lb/MMBtu) of energy input for the Cleaver Brooks Boiler and 0.030 grains per dry standard cubic foot (gr/dscf) of gas flow for the Head House Suction.

III. Analysis of Supporting Materials Provided by Indiana

The general criteria used by the EPA to evaluate such intra-facility emissions trades, or ''bubbles,'' under the Clean Air Act and applicable regulations are set out in the EPA's December 4, 1986, Emissions Trading Policy Statement (ETPS) (see 51 FR 43814). Illinois Cereal Mills' particulate emissions trade qualifies as a ''de minimis'' trade. The qualification for a ''de minimis'' trade is that the sum of particulate matter emissions increases, looking only at sources with increasing emissions, totals less than 25 TPY. The only increasing source, the Cleaver Brooks Boiler, has an emissions increase of 0.3 TPY particulate matter. Indiana did submit a modeling analysis, even though it was not required for this trade. The results of the modeling show zero air quality impact when considering only increased emissions from the Cleaver Brooks Boiler. Both of the modeled annual and 24-hour maximum PM concentration impacts were less than 0.1 micrograms per cubic meter ($\mu g/m^3$) for the five years modeled.

IV. What Are the Environmental Effects of These Actions?

This SIP revision should not result in any change in particulate matter emissions from Illinois Cereal Mills. Qualifying for a de minimis trade means that the amount of emissions being increased is less than EPA designated significance levels found in 40 CFR 51.18(j)(1)(x) and 40 CFR 51.24(b)(23)(i). The modeling analysis submitted by the State demonstrates that there should be zero impact on all areas from modifying the particulate emissions limits. This SIP revision will not have an adverse effect on air quality.

V. EPA Rulemaking Actions

The EPA is approving, though direct final rulemaking, revisions to the particulate matter emissions regulations for Illinois Cereal Mills of Marion County, Indiana. The State of Indiana, in 326 Indiana Administrative Code 6–1–12(a), has changed the annual emissions limits for Illinois Cereal Mills (Plant ID 0020). For the Cleaver Brooks Boiler (Point ID 01), Indiana increased the limit from 0.7 to 1.0 TPY. Indiana decreased the emissions limit on the Head House Suction (Point ID 18) from 6.3 to 6.0 TPY.

We are publishing these actions without a prior proposal because we view these as noncontroversial revisions and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 30, 2001 without further notice unless we receive relevant adverse written comment by July 2, 2001. If the EPA receives adverse comment, we will publish a final rule informing the public that this rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA does not intend to institute a second comment period on this action. Any parties interested in commenting on these actions must do so at this time.

VI. 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 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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). This rule will be effective July 30, 2001 unless EPA receives adverse written comments by July 2, 2001.

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 30, 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 9, 2001.

Norman Neidergang,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, 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 P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(138) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(138) On August 2, 2000, Indiana submitted revised total suspended particulate emissions regulations for Illinois Cereal Mills, Incorporated in Marion County, Indiana. The submittal amends 326 IAC 6–1–12(a). It includes an increase in the annual particulate matter limit from 0.7 tons per year (TPY) to 1.0 TPY for a boiler and a decrease in the annual limit from 6.3 TPY to 6.0 TPY for a grain elevator.

(i) Incorporation by reference.

Emissions limits for Illinois Cereal Mills, Incorporated in Marion County contained in Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Non-attainment Area Limitations, Section 12: Marion County, subsection (a). Filed with the Secretary of State on May 26, 2000 and effective on June 25, 2000. Published in 23 *Indiana Register* 2414 on July 1, 2000.

[FR Doc. 01–13506 Filed 5–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA40–1–7338a; FRL–6988–4]

Approval and Promulgation of Implementation Plan; Louisiana; Nonattainment Major Stationary Source Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a revision to the Louisiana State Implementation Plan (SIP) relating to ''Nonattainment New Source Review Procedures.'' This revision was submitted on July 25, 1997, by the Governor of Louisiana to EPA for approval. This revision removes a provision from the State's regulation, in Title 33 of the Louisiana Administrative Code (LAC), chapter 5, section 504, that treated nitrogen oxides (NO_X) as precursors to ozone in ozone nonattainment areas. This makes the regulation consistent with earlier actions by EPA that exempted NO_X as an ozone precursor in the Baton Rouge and Lake Charles nonattainment areas. Such exemptions are conditional and may be rescinded in which event section 504 would need to again be modified. By letter from Governor Foster to EPA dated March 5, 2001, the State has indicated that it is in fact considering a request for recission of the waiver. Despite such, however, EPA must first act on the State's prior request for a NO_X waiver and any regulations that the State adopted to implement such NO_X waiver pursuant to section 110(k) of the Act. In addition, this regulation also contains several administrative revisions that are non-substantive in nature and do not alter the meaning of this rule (such as corrections of capitalization errors). This rulemaking action is being taken under sections 110, 301, and part D of the Federal Clean Air Act (Act).

DATES: This action is effective on July 30, 2001, unless adverse or critical comments are received by July 2, 2001. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Please address written comments on this action to Ms. Jole Luehrs, Chief, Air Permits Section, Mailcode 6PD–R, Attention: Ms. Wendy Jacques at the EPA Region 6 Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air Permits Section (6PD–R), 1445 Ross Avenue, Dallas, Texas 75202–2733

Louisiana Department of Environmental Quality, H. B. Garlock Building, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810

FOR FURTHER INFORMATION CONTACT: Ms. Wendy Jacques of the EPA Region 6 Air Permits Section at (214) 665–7395.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' means EPA.

Table of Contents

I. What Action Are We Taking Today?
II. What is the Background of Section 504?
III. What Does Section 182(f) of the Act Require?
IV. EPA Analysis
V. Final Action
VI. Administrative Requirements

I. What Action Are We Taking Today?

Today's action approves the removal of a provision from Title 33 LAC, chapter 5, section 504, that treated NO_X as a precursor to ozone in current ozone nonattainment areas. This makes the regulation consistent with earlier actions by EPA to exempt NO_X as an ozone precursor. This exemption was based on modeling that demonstrated that additional NO_X reductions would not contribute to attainment of the National Ambient Air Quality Standard (NAAQS) for ozone in the current nonattainment areas. In addition, we are approving several administrative revisions that are non-substantive in nature and do not alter the meaning of this rule.

II. What Is the Background of Section 504?

The State of Louisiana submitted to EPA two separate rule revisions to Title 33 of the LAC, chapter 5, section 504. The base rule was initially approved by EPA on October 10, 1997 (see 62 FR 52948). The first revision to section 504

was submitted to EPA on May 9, 1997, and was approved by EPA on January 5, 1999 (see 64 FR 415). The second revision to section 504, which this action will act upon, was submitted to EPA on July 25, 1997, as 1996 General SIP revisions. The July 25, 1997, submittal was adopted by the State of Louisiana previous to the adoption of the May 9, 1997, submittal. However, since the revisions were submitted out of sequence, EPA first approved the May 9, 1997, submittal. Today's action approves the chapter 5, section 504, portion of the 1996 General SIP revisions which were adopted on December 20, 1995, and submitted to EPA on July 25, 1997, by the Governor of Louisiana. The EPA will act on the remainder of the July 25, 1997, submittal in a separate action.

The EPA has exempted NO_X precursors to ozone based on a demonstration that additional NO_X reductions would not contribute to attainment of the NAAQS for ozone in the current nonattainment areas. The EPA previously approved the exemption (under section 182(f) of the Act) of NO_X requirements for the serious ozone nonattainment area of Baton Rouge [1] on January 26, 1996 (see 61 FR 2438). The EPA approved the exemption of NO_X requirements for the marginal ozone nonattainment area of Lake Charles (Calcasieu Parish) on May 29, 1997 (see 62 FR 29072).[2]

III. What Does Section 182(f) of the Act Require?

Section 182(f) of the Act sets forth the presumption that NO_X is an ozone precursor unless the Administrator makes a finding of nonapplicability or grants a waiver pursuant to criteria contained in that subsection. Specifically, section 182(f) provides that requirements applicable for major stationary sources of volatile organic compounds shall apply to major stationary sources of NO_X, unless otherwise determined by the Administrator, based upon certain determinations related to the benefits or contribution of NO_X control to air quality, ozone attainment, or ozone air quality. In the revised rule, NO_X has been removed based on a demonstration that additional NO_X reductions would not contribute to attainment of the NAAQS for ozone in the current nonattainment areas.

IV. EPA Analysis

The EPA has exempted major sources located in ozone nonattainment areas in Louisiana from applicable NO_X control requirements of section 182(f) of the Act based upon NO_X waivers previously approved by EPA. The EPA is approving revisions to section 504 which make the State regulation consistent with those previously approved waivers. We note that pursuant to section 182(f) of the Act those previously approved waivers are conditional and may be rescinded. Therefore, section 504 may again need to be modified if the previously approved waivers are rescinded. By letter from Governor Foster to EPA dated March 5, 2001, the State has indicated that it is in fact considering a request for recission of the waiver. Despite such, however, EPA must first act on the State's prior request for a NO_X waiver and any regulations that the State adopted to implement such NO_X waiver pursuant to section 110(k) of the Act. For a detailed analysis of this rule, a Technical Support Document is included in the public docket at the addresses listed above.

V. Final Action

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on July 30, 2001 without further notice unless EPA receives relevant adverse comments by July 2, 2001.

If EPA receives relevant adverse comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

VI. 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 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the 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 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 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. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in

[1] Consisting of the following parishes in Louisiana: Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge (see 40 CFR 81.319).

[2] Further, we approved the redesignation of Calcasieu to attainment for ozone on April 10, 1997, and which was published on May 2, 1997 (see 62 FR 24036).

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. 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 July 30, 2001 unless EPA receives adverse written comments by July 2, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 30, 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) of the Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 16, 2001.

Jerry Clifford,

Acting Regional Administrator, Region 6.

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 T—Louisiana

2. In § 52.970 (c), the table is amended by revising the entry for section 504 to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
*	*	*	*	*
Chapter 5—Permit Procedures				
*	*	*	*	*
Section 504	Nonattainment New Source Review Procedures.	Feb. 20, 1997, LR 23:197	5/31/01 66 FR 29493	
*	*	*	*	*

[FR Doc. 01–13504 Filed 5–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN126–1a; FRL–6986–2]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to particulate matter (PM) emissions regulations for Johns Manville Corporation (Johns Manville). This facility is located in Wayne County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulations on December 30, 1999 as an amendment to Indiana's State Implementation Plan (SIP). The revisions consist of increasing seven long-term limits, decreasing one short-term limit, removing an emissions source, and changing the company's name. The Johns Manville facility can operate up to 8760 hours annually with these revisions.

DATES: This rule is effective on July 30, 2001, unless the EPA receives relevant adverse written comments by July 2, 2001. If adverse comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Indiana's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6524, E-Mail: rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean the EPA.

Table of Contents

I. What is the EPA approving?
II. What are the limit changes from the current rules?
III. What is the EPA's analysis of supporting materials provided by Indiana?
IV. What are the environmental effects of these actions?
V. EPA rulemaking actions.
VI. Administrative requirements.

I. What Is the EPA Approving?

The EPA is approving revisions to the particulate matter emissions regulations for Johns Manville, which operates a fiberglass insulation manufacturing facility in Wayne County, Indiana. IDEM submitted the revisions on December 30, 1999 as an amendment to Indiana's SIP.

The revisions consist of the relaxation of seven long-term emissions limits, the tightening of one short-term limit, the removal of one emissions source, and the changing of the company's name from Schuller International, Inc. IDEM predicts that these revisions will result in a potential increase in ambient concentrations of particulate matter. Analysis shows, however, that there are no anticipated exceedances of the PM National Ambient Air Quality Standards (NAAQS) or violations of the applicable Prevention of Significant Deterioration (PSD) increment.

II. What Are the Limit Changes From the Current Rules?

Indiana has removed the emissions limits for one source which is no longer at the facility, and relaxed the long-term emissions limits for seven other sources. In addition, Indiana has tightened one short-term limit.

Indiana eliminated both the long and short-term emissions limits for the Unit 112 Curing Oven (IDEM source ID 18P) because the equipment was removed from the Johns Manville facility.

Indiana relaxed seven long-term limits in order to allow the facility to operate 8760 hours per year. The relaxed long-term limits are:

Source ID	Previous limit	Revised limit
15P	1.0 TPY	1.5 TPY
17P	0.1	3.9
19P	19.5	27.4
20P	4.0	6.2
21P	31.2	58.3
22P	58.5	123.6
23P	15.6	45.4

The sources are a Natural Gas Boiler (15P), the Line 6 Electric Melt Furnace (17P), the curing ovens for Line 3 (19P) and Line 6 (20P), and the three forming line processes for Line 2 (21P), Line 3 (22P), and Line 6 (23P). The long-term emissions limit for the Lines 2 and 3 Natural Gas Melt Furnaces (16P) remains unchanged. The total long-term emissions limit is 274.1 TPY. This is an increase of 116.9 TPY over the former total long-term emissions limit of 157.2 TPY.

Indiana tightened the boiler's (15P) short-term emissions limit from 0.150 to 0.0137 pounds per million British thermal units (lb/MMBtu). The reduction is a result of switching the fuel from oil to natural gas. The total short-term limits are 0.0137 lb/MMBtu for the boiler and 0.13 grains per dry standard cubic foot (gr/dscf) for all other sources. A reduction of 0.025 gr/dscf to the total emissions limit is a result of the removal of the Unit 112 Curing Oven (source 18P).

III. What Is the EPA's Analysis of Supporting Materials Provided by Indiana?

Indiana submitted the results of an air quality analysis. Only the portions regarding particulate matter were considered for this rulemaking. Although the SIP particulate matter limits are stated as Total Suspended Particulate (TSP), the ambient standards are expressed as particulate matter less than 10 μm diameter (PM–10). As all particulate matter emitted from the Johns Manville facility is PM–10, PM–10 emissions were used in the analysis. The maximum ambient concentrations of PM–10 were modeled to be 127.2 $\mu g/m^3$ for the 24-hour average and 36.4 $\mu g/m^3$ for the annual average. The NAAQS for PM–10 are 150 $\mu g/m^3$ (24-hour) and 50 $\mu g/m^3$ (annual). Wayne County, Indiana is in attainment of the particulate matter NAAQS.

The air quality analysis also indicated that this SIP revision is not expected to exceed the applicable PSD increment. The PSD increments for Wayne County are 30 $\mu g/m^3$ (24-hour) and 17 $\mu g/m^3$ (annual). The modeled concentrations are 23.5 $\mu g/m^3$ (24-hour) and 0 $\mu g/m^3$ (annual). Five years of meteorological data (1986–1990) were used to model the NAAQS and PSD averages. The analysis found no modeled NAAQS violations and no exceedances of the applicable PSD increment. The EPA has analyzed Indiana's submittal and has determined that it is acceptable.

IV. What Are the Environmental Effects of These Actions?

Particulate matter interferes with lung function when inhaled. Exposure to it can cause heart and lung disease. Particulate matter also aggravates asthma. Airborne particulate reduces visibility. The Johns Manville facility does increase its PM emissions with these SIP revisions. The revisions meet the PSD conditions, meaning that the increases are not expected to harm ambient air quality in the Wayne County area. The air quality modeled analysis indicates that the approved PM emissions increase will not create a violation of the NAAQS.

V. EPA Rulemaking Actions

The EPA is approving, through direct final rulemaking, revisions to the particulate atter emissions regulations for Johns Manville in Wayne County, Indiana. These revisions change the name of Schuller International, Incorporated to the Johns Manville Corporation. Other revisions consist of raising seven long-term limits, lowering one short-term limit, and removing an emissions source. These SIP revisions allow Johns Manville to operate its facility full time.

We are publishing this action without a prior proposal because we view these as noncontroversial revisions and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 30, 2001 without further notice unless we receive relevant adverse written comment by July 2, 2001. If the EPA receives adverse written comment, we will publish a final rule informing the public that this rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA does not intend to institute a second comment period on this action. Any parties interested in commenting on these actions must do so at this time.

VI. 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 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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). This rule will be effective July 30, 2001 unless EPA receives adverse written comments by July 2, 2001.

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 30, 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 9, 2001.

Norman Neidergang,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, 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 P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(139) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(139) On December 30, 1999, Indiana submitted revised total suspended particulate emissions regulations for Johns Manville Corporation in Wayne County. The submittal appends 326 IAC 6–1–14. It includes raising seven long-term emissions limits, lowering one short-term limit, removing one emissions source, and a name change for the company. The long-term limits are being raised to allow to facility to operate 8760 hours annually. Switching fuel for a boiler allows its short-term limit to be decreased. One emissions source was removed from this facility. The Johns Manville, Wayne County, facility was formerly known as Schuller International, Incorporated.

(i) Incorporation by reference.

Emissions limits for Johns Manville Corporation in Wayne County contained in Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Non-attainment Area Limitations, Section 14: Wayne County. Filed with the Secretary of State on September 24, 1999, and effective on October 24, 1999. Published in 23 *Indiana Register* 301 on November 1, 1999.

[FR Doc. 01–13502 Filed 5–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA107–5049; FRL–6987–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Clarifying Revisions to 9 VAC 5 Chapter 40 Fuel Burning Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Virginia State Implementation Plan (SIP) regarding existing stationary sources. The revisions concern provisions covering fuel burning equipment. The intent of the revisions is to clarify the applicability of the regulation and to indicate clearly that permits may be needed for the operation of a facility. New definitions to reflect the clarification along with some additional minor changes are included in the revisions. These revisions, submitted by the Commonwealth of Virginia's Department of Environmental Quality (VADEQ), are being approved in accordance with the Clean Air Act.

DATES: This rule is effective on July 30, 2001 without further notice, unless EPA receives adverse written comment by July 2, 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. 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; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, or by e-mail at knapp.ruth@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us'' or ''our'' are used we mean EPA.

Table of Contents

I. What is the EPA Approving?
II. What are the Provisions of the Revised Regulation?
III. What Are the Environmental Effects of this Action?
IV. Special Provisions Regarding Virginia.
V. EPA Rulemaking Action.
VI. Administrative Requirements.

I. What Is EPA Approving?

We are approving, as a SIP revision, changes made to the Commonwealth of Virginia's regulations for fuel burning equipment. The SIP revisions consist of new definitions and additional wording to clarify that the fuel burning regulations under the Commonwealth's regulations found at 9 VAC 5–40–880, 9 VAC 8–40–890, 9 VAC 5–40–900, 9 VAC 5–40–940, and 9 VAC 5–40–1040 apply to stationary combustion turbines but not to stationary internal combustion engines. Definitions for each of these types of equipment have been added to 9 VAC 5–40–890, Definitions. Some minor additional changes in wording are also included in the revisions along with additional clarification of when permits may be needed at a facility.

II. What Are the Provisions of the Revised Regulation?

The revisions clarify which sources are covered under the Fuel Burning Equipment Rule. The revisions indicate that the provisions of 9 VAC 5 Chapter 40 related to Emission Standards for Fuel Burning Equipment do not apply to stationary internal combustion engines. The definition of fuel burning equipment has been revised to indicate clearly that stationary combustion turbines are considered to be fuel burning equipment. Two new definitions have been added to the rule at 9 VAC 5–40–890. One defines a ''stationary combustion turbine'' as any air breathing internal combustion engine consisting of an air compressor, combustion chamber, and a turbine wheel. The definition of a ''stationary internal combustion engine'' is an engine in which fuel is burned within a machine in which energy is converted directly into mechanical motion or work. The energy is used directly for the production of power, locomotion or work. Internal combustion engines include, but are not limited to, diesel engines, gasoline engines, and diesel pumps. In addition to these clarifications of applicability, 9 VAC 5–40–1040 has been revised to indicate that permits may be needed for the operation of a facility.

III. What Are the Environmental Effects of This Action?

The changes regarding the definition of fuel burning equipment only clarify the current interpretation of the regulations. They do not make the regulations any more or less stringent. The revisions, therefore, have no direct environmental effects in and of themselves. They do provide the public and industry with a better understanding of the type of equipment regulated under this rule.

IV. Special Provisions Regarding Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.'' Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

V. EPA Rulemaking Action

We are approving revisions to the Virginia SIP submitted by the Virginia Department of Environmental Quality on March 27, 2000. The revisions to 9 VAC 5 Chapter 40 pertaining to Fuel Burning Equipment clarify the applicability to stationary combustion turbines and also clarifies when permits may be needed. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 30, 2001 without further notice unless we receive adverse comment by July 2, 2001. Should we receive such comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action must do so at this time.

VI. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). 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.*).

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 30, 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 regarding revisions to the Virginia Fuel Burning Equipment Rule 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 17, 2001.

Thomas C. Voltaggio,

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 VV—Virginia

2. In § 52.2420, the entries for 9 VAC 5 Chapter 40, subsections 5–40–880, 5–40–890, 5–40–900, 5–40–940 and 5–40–1040 in the ''EPA-Approved Regulations in the Virginia SIP'' table in paragraph (c) are revised to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (former SIP citation)
*	*	*	*	*
Chapter 40—Existing Stationary Sources				
5–40–880	Applicability and designation of affected facility.	April 1, 1999	5/31/01 66 FR 29498	
5–40–890	Definitions	April 1, 1999	5/31/01 66 FR 29498	
5–40–900	Standard for particular matter	April 1, 1999	5/31/01 66 FR 29498	
*	*	*	*	*
5–40–940	Standard for visible emissions	April 1, 1999	5/31/01 66 FR 29498	
*	*	*	*	*
5–40–1040	Permits	April 1, 1999	5/31/01 66 FR 29498	
*	*	*	*	*

(d) * * *

[FR Doc. 01–13500 Filed 5–30–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

42 CFR Part 66

RIN 0925–AA16

National Research Service Awards

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: The National Institutes of Health (NIH) is amending the regulations governing National Research Service Awards (NRSA) in order to incorporate changes necessitated by enactment of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) Reorganization Act of 1992, Public Law 102–321, and the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

DATES: This final rule is effective on July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Jerry Moore, NIH Regulations Officer, National Institutes of Health, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20892, or telephone (301) 496–4607 (not a toll-free number). For further information about the National Research Service Awards program contact the Extramural Outreach and Information Resources Office (EOIRO), Office of Extramural Research, 6701 Rockledge Drive, Room 6208, MSC 7910, Bethesda, MD 20892–7910, (301) 435–0714 (not a toll-free number). Information may also be obtained by contacting the EOIRO via its e-mail address (asknih@odrockml.od.nih.gov) and by browsing the NIH Home Page site on the World Wide Web (http://www.nih.gov).

SUPPLEMENTARY INFORMATION: The ADAMHA Reorganization Act of 1992, Public Law 102–321, was enacted on July 10, 1992. That Act transferred the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institute on Drug Abuse (NIDA), and the National Institute of Mental Health (NIMH) to NIH, effective October 1, 1992, and provided for the administration of treatment and service programs under a newly created Substance Abuse and Mental Health Services Administration (SAMHSA). In order to avoid confusion between the ADAMHA Minority Access to Research Careers (MARC) program and the NIH MARC program, the name of the ADAMHA program was changed to Career Opportunities in Research Education and Training (COR). Currently, the MARC program is administered by the National Institute of General Medical Sciences (NIGMS) and the COR program is administered by the NIMH. NIH is revising paragraph (g) of § 66.102 of the existing regulation to reflect this name change and the current organization locations of the respective programs.

Subsequently, the National Institutes of Health Revitalization Act of 1993, Public Law 103–43, was enacted on June 10, 1993. Provisions of that Act necessitate that NIH make changes in both Subparts A and B of the current regulations governing the NRSA program.

Section 1601 of Public Law 103–43 directs the Secretary of Health and Human Services (HHS) to conduct the NRSA program in a manner that will result in the recruitment of women and individuals from disadvantaged backgrounds (including racial and ethnic minorities) into fields of biomedical or behavioral research and the provision of research training to women and those individuals. The United States House of Representatives report accompanying the NIH Revitalization Act of 1993 suggested that NIH consider the possibility of permitting part-time research training for women to keep them from losing training experience while having child care responsibilities. We are revising paragraph (b) of § 66.103 of the current NRSA regulations and adding a new paragraph (c) to permit individuals, in cases of disability or pressing family need, part-time research or training. Additionally, we are amending paragraph (a) of § 66.103 by changing the word ''application'' to read ''the award'' to reflect the current policy with regard to eligibility requiring that a recipient must be lawfully admitted to the United States for permanent residence at the time of the award rather than at the time of application.

Section 1602 of the NIH Revitalization Act of 1993 substantially modifies the service payback obligation under the NRSA program. Under provisions of the new law, only individuals in the first twelve months of postdoctoral training incur a payback obligation. Additionally, individuals may pay back this obligation by engaging in service for an equal period of health-related research or health-related teaching; or, if individuals receive an NRSA for more than twelve months, each month beyond 12 months will count toward satisfaction of the repayment obligation. We are amending § 66.105 by revising paragraphs (a), (b), and (c); revising § 66.110 in its entirety; amending § 66.111 of subpart A by revising paragraph (a)(1), the introductory language of paragraph (b), and paragraph (b)(4); and amending § 66.205

of subpart B by revising paragraphs (a)(1) and (b) to reflect these changes in the payback obligation. Additionally, we are amending paragraph (a)(2) by changing the word ''application'' to read ''the award'' in order to reflect the current policy with regard to eligibility requiring that a recipient must be lawfully admitted to the United States for permanent residence at the time of the award rather than at the time of application. We are amending paragraph (b) of § 66.205 by changing the reference to ''§ 66.106(d)'' to read ''§ 66.106(e)'' to correct an error in the current text.

In § 66.112, subpart A, we are removing the reference to the regulations pertaining to inventions and patents at 45 CFR parts 6 and 8 to reflect the rescinding of parts 6 and 8, effective on October 22, 1996 (61 FR 54743); and we are amending the references to the regulations pertaining to debarment and suspension at 45 CFR part 76 and the guidelines for research involving recombinant DNA molecules to comply with **Federal Register** format requirements. Additionally, we are amending the title of § 66.112 to reflect that policies, as well as regulations, are referenced in that section.

In § 66.207, we are amending the reference to the regulations pertaining to the administration of grants at 45 CFR part 74, the reference to the regulations pertaining to debarment and suspension from eligibility for financial assistance at 45 CFR part 76, and the reference to the guidelines for research involving recombinant DNA molecules to comply with **Federal Register** format requirements. Also, we are adding a reference to the regulations to ensure objectivity in PHS-funded research at 42 CFR part 50, subpart F, to reflect their applicability to NRSA research training grants and direct fellowship awards.

Additionally, we are revising the Authority section and the references to section 472 of the Public Health Service Act and the United States Code [42 U.S.C. 2891–1] in § 66.101, § 66.102(d), § 66.105(b), § 66.106(a)(2), § 66.201, and § 66.206(a)(3) to reflect the correct citations.

Finally, we are amending § 66.104 by adding the word ''and'' immediately following the word ''resources'' in paragraph (b)(5) to correct an error in the current text.

We announced our intentions to make these changes to the regulations in a notice of proposed rulemaking (NPRM) published in the **Federal Register** on June 30, 1999 (64 FR 35119). No comments were received. Consequently, the regulations are the same as those proposed in the NPRM.

We provide the following statements as information for the public.

The Department strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products and reminds that Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Executive Order 12866

Executive Order 12866, Regulatory Planning and Review, requires that all regulatory actions reflect the costs and benefits they generate, and that they meet certain standards, such as avoiding the imposition of unnecessary burdens on the affected public. We reviewed the rule as required under Executive Order 12866 and deemed it within the scope of the definition of the term ''significant regulatory action'' contained in section 3(f) of the Order. Consequently, we submitted the rule to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) for the pre-publication review required for all regulatory actions deemed ''significant'' under the Order.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. chapter 6) requires that we analyze regulatory actions to determine whether they create a significant impact on a substantial number of small entities. The Secretary certifies that the changes in the NRSA program regulations would not have a significant economic impact on a substantial number of small entities and, therefore, a regulatory flexibility analysis, as defined under the Regulatory Flexibility Act, is not required.

Executive Order 13132

Executive Order 13132, Federalism, requires that we consult with State and local government officials in the development of regulatory policies with federalism implications. We received the rule as required under the Order and determined that it does not have any federalism implications. The Secretary certifies that the changes in the NRSA program regulations will not have an effect on the States or on the distribution of power and responsibilities among the various levels of government.

Paperwork Reduction Act

The rule does not contain any information collection requirements that are subject to OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) numbered program affected by this rule is: 93.186 National Research Service Awards-Health Service Research Training.

List of Subjects in 42 CFR Part 66

Grant programs-Health research training.

Dated: November 15, 2000.

Ruth L. Kirschstein,

Principal Deputy Director, NIH.

Approved: March 13, 2001.

Tommy G. Thompson,

Secretary.

For the reasons set forth in the preamble, part 66, subparts A and B, of title 42 of the Code of Federal Regulations are revised to read as set forth below.

PART 66—NATIONAL RESEARCH SERVICE AWARDS

Subpart A—Direct Awards

1. The authority citation of part 66 is revised to read as follows:

Authority: 42 U.S.C. 216, 288.

2. Section 66.101 is revised to read as follows:

§ 66.101 Applicability.

The regulations in this subpart apply to National Research Service Awards made by the Secretary to individuals for research and training to undertake research, under section 487 of the Public Health Service Act, as amended (42 U.S.C. 288).

3. Section 66.102 is amended by revising paragraphs (d) and (g) to read as follows:

§ 66.102 Definitions.

* * * * *

(d) *Award* means a National Research Service Award under section 487 of the Act (42 U.S.C. 288).

* * * * *

(g) *Predoctoral training* means training at the post-baccalaureate level in a program leading to the award of a doctor of philosophy of science, or equivalent degree. For purposes of Awards under the Minority Access to Research Careers programs of the National Institute of General Medical Sciences and the Career Opportunities in Research Education and Training programs of the National Institute of Mental Health, *predoctoral training* also means training in a program leading to

the award of a baccalaureate in science or equivalent degree.

* * * * *

4. Section 66.103 is amended by revising paragraphs (a) and (b) and adding a new paragraph (c) to read as follows:

* * * * *

§ 66.103 Eligibility.

* * * * *

(a) Be a citizen, noncitizen national of the United States, or lawfully admitted to the United States for permanent residence at the time of the award.

(b) Propose to engage in such research, or training to undertake research, in a program specified in section 487(a)(1)(A) of the Act; and

(c) Propose to engage in such research or training to undertake research on a full-time basis except in cases of disability or pressing family need.

5. Section 66.104 is amended by adding the word ''and'' immediately following the word ''resources'' in paragraph (b)(5). As revised, paragraph (b)(5) reads as follows:

§ 66.104 Application.

* * * * *

(b) * * *

(5) The availability of necessary resources and facilities at the institution where the research or training would be conducted.

6. Section 66.105 is amended by revising paragraphs (a), (b) introductory text, and (c) to read as follows:

§ 66.105 Requirements.

* * * * *

(a) For any Award made for an individual's initial twelve months of NRSA postdoctoral research or training, the individual has assured the Secretary, in the form and manner the Secretary may prescribe, that he or she will satisfy the requirements of § 66.110.

(b) If the proposed research or training would take place at an institution other than the National Institutes of Health, the institution has assured the Secretary, in the form and manner the Secretary may prescribe, that:

* * * * *

(c) The individual has assured the Secretary, in the form and manner the Secretary may prescribe, that the Award to the individual will not be used to support a residency.

7. Section 66.106 is amended by revising paragraph (a)(2) introductory text to read as follows:

§ 66.106 Awards.

(a) * * *

(2) Whose proposed research or training would, in the judgment of the Secretary, best promote the purposes of section 487(a)(1)(A) of the Act, taking into consideration among other pertinent factors:

* * * * *

8. Section 66.110 as revised in its entirety to read as follows:

§ 66.110 Service, payback, and recovery requirements.

(a) Each individual who receives an Award for postdoctoral research or training shall engage in a month of research training, research, or teaching that is health-related (or any combination thereof) for each month of support received, up to a maximum of twelve months. Such period shall be served in accordance with the usual patterns of such employment or training.

(b) In any case in which an individual receives an Award for more than twelve months, the thirteenth month and each subsequent month of performing activities under the Award shall be considered to be activities toward satisfaction of the requirement established in paragraph (a) of this section.

(c) Except as provided in § 66.111, an individual subject to the requirements for service in paragraph (a) of this section must begin to undertake the service on a continuous basis within two years after the expiration or termination for his or her Award.

(d) If the individual fails to undertake or perform the service in accordance with the requirements of this section, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula:

$$A = 0\frac{(t-s)}{(t)}$$

In which

A is the amount the United States is entitled to recover;

0 is the sum of the total amount paid to the individual for the months of postdoctoral support up to a maximum of twelve months;

t is total number of months in the individual's service obligation;

and *s* is the number of months of the obligation served by him or her in accordance with paragraph (a) or (b) of this section.

(e) Except as provided in § 66.111, the individual shall pay to the United States any amount which it is entitled to recover under paragraph (d) of this section within a three-year period beginning on the date the United States becomes entitled to recovery that amount. Interest shall accrue to the United States until any amount due it under paragraph (d) of the section is paid. The rate of interest will be fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to recovery.

9. Section 66.111 is amended by revising paragraphs (a) introductory text, (b) introductory text, and (c)(4) to read as follows:

§ 66.111 Suspension, waiver, and cancellation.

(a) The Secretary may extend the period for undertaking service described in § 66.110(c), permit breaks in the continuous service required under § 66.110(c), or extend the period of repayment under § 66.110(e) if the Secretary determines that:

* * * * *

(b) The Secretary may waive, in whole or in part, the obligation of the individual to repay pursuant to § 66.110(d) if the Secretary determines that:

* * * * *

(c) * * *

(4) The extent to which the individual has been engaged in activities encompassed by § 66.110(a) and (b);

* * * * *

10. Section 66.112 is amended by revising the heading; removing the entry ''45 CFR parts 6 and 8'', revising the entry ''45 CFR part 76'', removing the entry ''48 FR 24556'', and adding the entry ''51 FR 16958 (May 7, 1986)'' to read as follows:

§ 66.112 Other HHS regulations and policies that apply.

* * * * *

45 CFR part 76—Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants)

51 FR 16958 (May 7, 1986)—NIH Guidelines for Research Involving Recombinant DNA Molecules.

Note: This policy is subject to change, and interested persons should contact the Office of Science Policy, Office of Biotechnology Activities, NIH, Suite 302, 6000 Executive Boulevard, MSC 7052, Bethesda, MD 20892–7052, (301) 496–9838 (not a toll-free number) to obtain references to the current version and any amendments.

Subpart B—Institutional Grants

11. Section 66.201 is revised to read as follows:

§ 66.201 Applicability.

The regulations in this subpart apply to grants under section 487 of the Public

Health Service Act, as amended (42 U.S.C. 288), to public institutions and to nonprofit private institutions to enable those institutions to make National Research Service Awards to individuals for research and training to undertake research, in programs specified in section 487 of the Act.

12. Section 66.205 is amended by revising paragraphs (a)(1) and (a)(2), and (b) to read as follows:

§ 66.205 Requirements.

(a) * * *

(1) For any award made for an individual's initial twelve months of NRSA postdoctoral research training, the individual has assured the Secretary, in the form and manner the Secretary may prescribe, that he or she will satisfy the requirements of § 66.110 of subpart A of this part;

(2) The individual is a citizen or noncitizen national of the United States or has been lawfully admitted to the United States for permanent residence at the time of the award;

* * * * *

(b) No Award shall be made to an individual under such grant which would provide that individual with aggregate support in excess of five years for predoctoral training and three years for postdoctoral training, unless the Secretary for good cause shown as provided in § 66.106(e) of subpart A of this part, waives the application of the limitation with respect to that individual;

* * * * *

13. Section 66.206 is amended by revising paragraph (a)(3) introductory text to read as follows:

§ 66.206 Grant awards.

(a) * * *

(3) Whose proposed programs would, in the judgment of the Secretary, best promote the purposes of section 487(a)(1)(B) of the Act, taking into consideration among other pertinent factors:

* * * * *

14. Section 66.207 is amended by revising the references to 45 CFR part 74, 45 CFR part 76, and 48 FR 24556; and adding an entry for 42 CFR part 50, subpart F, immediately following the entry ''42 CFR part 50, subpart D'' and an entry for 51 FR 16958 (May 7, 1986) to read as follows:

§ 66.207 Other HHS regulations and policies that apply.

* * * * *

42 CFR part 50, subpart F—Responsibility of applicants for promoting objectivity in research for which PHS funding is sought.

* * * * *

45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with states, local governments and Indian tribal governments.

* * * * *

45 CFR part 76—Governmentwide debarment and suspension (non procurement) and governmentwide requirements for drug-free workplace (grants)

* * * * *

51 FR 16958 (May 7, 1986)—NIH Guidelines for Research Involving Recombinant DNA Molecules.

Note: This policy is subject to change, and interested persons should contact the Office of Biotechnology Activities, NIH, Suite 302, 6000 Executive Boulevard, MSC 7052, Bethesda, MD 20892–7052, (301) 496–9838 (not a toll-free number) to obtain references to the current version and any amendments.

[FR Doc. 01–13692 Filed 5–30–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 232

[FRA Docket No. PB–9; Notice No. 19]

RIN 2130–AB16

Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule; delay of compliance date; conforming amendment.

SUMMARY: On January 17, 2001, FRA published a final rule revising the regulations governing braking systems and equipment used in freight and other non-passenger railroad train operations. In response to the final rule, FRA received a petition for reconsideration from the Association of American Railroads (AAR) seeking reconsideration of, among other things, a requirement that, if the person conducting the test of the two-way end-of-train device on a train is someone other than a train crew member, the locomotive engineer of the train must be notified of the name of the person conducting the test and a record must be maintained, in the cab of the controlling locomotive, containing the name of the person conducting the test. In order to allow FRA an opportunity to respond to this petition prior to the compliance date of the provision in question, this document delays the compliance date for this specific requirement from May 31, 2001, to a future date to be specified in FRA's response to the petition for reconsideration if the petition is not granted. This action also makes a conforming amendment to the rule text to reflect this change.

DATES: The effective date of this conforming amendment is May 31, 2001.

FOR FURTHER INFORMATION, CONTACT: Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, RCC–10, 1120 Vermont Avenue, NW., Stop 10, Washington, DC 20590 (telephone 202–493–6053).

SUPPLEMENTARY INFORMATION: On January 17, 2001, FRA published a final rule revising the Federal safety standards governing braking systems and equipment used in freight and other non-passenger railroad train operations. *See* 66 FR 4104. The effective date of the rule is May 31, 2001. *See* 66 FR 9906 (February 12, 2001). In response to the final rule, FRA received several petitions for reconsideration requesting that FRA either amend or clarify the final rule in various ways. Organizations filing petitions included the Association of American Railroads (AAR) (this petition was filed jointly with the American Short Line and Regional Railroad Association), the Brotherhood of Locomotive Engineers, the American Public Transportation Association, and the Rail Passenger Car Alliance. Unfortunately, these petitions are not available on line at the Department of Transportation's centralized Docket Management System Web site because this proceeding originated well before that system was created. They are available, of course, at FRA's docket office or by contacting the contact person shown above. (FRA's docket office is located at 1120 Vermont Avenue, NW., Room 7051, Washington, DC FRA's Docket Clerk, Ms. Ivornette Nelson, may be reached by telephone at (202) 493–6030 or by facsimile at (202) 493–6068.)

Collectively, the petitions raise approximately 25 issues, although some of the more important issues have subsidiary questions. The issues cover a wide gamut, including the requirement to equip locomotives with dynamic brake indicators, documentation and timing of training, the maximum

distance that extended-haul trains may travel between inspections, and the meaning of certain language in the final rule. The fact that there are many issues that various organizations desire FRA to reconsider is not surprising, given the complexity of the final rule and the large number of issues it addresses. FRA will give each of these issues full consideration and issue a subsequent document explaining how it has addressed each issue and making any necessary amendments to the final rule. FRA hopes to issue such a comprehensive document concerning all issues raised in the petitions during the summer of 2001, but to the extent any particular issues require more time to resolve, the agency may address those separately at a later date.

Of the many issues raised in the petitions, only one issue concerns a provision for which the compliance date is scheduled to be May 31, 2001. This document concerns that issue. AAR's petition sought reconsideration of a provision requiring certain information about the testing of a two-way end-of-train (EOT) device to be provided to a locomotive engineer. The final rule requires that, if the person conducting the test of the two-way EOT is someone other than a member of the train crew, the locomotive engineer must be notified of the name of the person conducting the test and a record must be maintained, in the cab of the controlling locomotive, containing the name of that individual *See* 66 FR 4210, § 232.409(c). Under the provisions of the final rule, the compliance date for this and other requirements of Subpart E is May 31, 2001. *See* 66 FR 4193, § 232.1(b), and document on delay of effective date, 66 FR 9906 (February 12, 2001). To allow FRA an opportunity to respond to this issue without imposing a burden on the industry that might soon be withdrawn if the petition is granted, this document delays the compliance date of this specific requirement, from May 31, 2001, until further notice. If the petition is not granted with respect to that issue, the document explaining that decision will set a new compliance date for that provision. If the petition is granted, of course, there will be no need for any compliance date.

FRA emphasizes that this delay of compliance date applies only to the requirement to provide and retain the name of the person conducting the inspection of a two-way EOT device. The delay does not apply to the provisions for notification and retention of the other information regarding the inspection of a two-way EOT device required by the final rule. *See* 66 FR 4210, § 232.409(c). Nor does the delay apply to any other provision of the final rule, including other provisions addressed in AAR's petition and the petitions filed by other organizations. None of those other issues on which reconsideration is sought involves provisions having a compliance date in the near future. FRA anticipates resolving those petitions long before the compliance dates set forth in the final rule, which for most provisions is April 1, 2004.

List of Subjects in 49 CFR Part 232

Penalties, Railroad power brakes, Railroad safety, Two-way end-of-train devices.

The Rule

In consideration of the foregoing, 49 CFR part 232, as revised at 66 FR 4210 and delayed at 66 FR 9906, effective May 31, 2001, is amended as follows:

PART 232—[AMENDED]

1. The authority citation for part 232 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20301–20303, 20306, 21301–21302, 21304; 49 CFR 1.49(c), (m).

2. In § 232.409(c), add before the period at the end of the last sentence the following: '', except that compliance with the following provision of this paragraph will not be required until further notice published in the **Federal Register:** the provision that the locomotive engineer shall be provided with the name of the person conducting the test and that a written or electronic record of the notification of the name of the person conducting the test shall be maintained in the cab of the controlling locomotive''.

Issued in Washington, D.C., on May 25, 2001.

George A. Gavalla,

Acting Deputy Administrator, Federal Railroad Administration.

[FR Doc. 01–13658 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 000225052–1102–02; I.D. 102599C]

RIN 0648–AN29

Regulations Governing the Approach to Humpback Whales in Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to establish measures to protect humpback whales, *Megaptera novaeangliae*, in waters within 200 nautical miles (370.4 km) of Alaska. Under these regulations it is unlawful for a person subject to the jurisdiction of the United States to approach, by any means, with some exceptions, within 100 yards (91.4 m) of a humpback whale.

DATES: Effective July 2, 2001.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analyses (EA/RIR/FRFA), prepared for this action are available from NMFS, Protected Resources Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, or by calling the Alaska Region, NMFS, at 907–586–7235.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7235, Kaja.Brix@noaa.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under the authority of both the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*).

Background

The National Marine Fisheries Service published a proposed rule (65 FR 39336, June 26, 2000) that would have prohibited the approach by any person, by any means, with certain exceptions, within 200 yards (yds) (182.8 meters (m)) of a humpback whale, Megaptera novaeangliae, in waters within 200 nautical miles (370.4 km) of the coast of Alaska. The proposed rule prohibited approaches by any means, including by interception (e.g., placing the vessel in the path of the humpback whale so that the whale surfaces within the buffer zone), and prohibited the disruption of normal behavior or prior activity of a

whale. Changes from the proposed rule and reasons for those changes are discussed below.

The preamble to the proposed rule discussed species distribution and abundance, whale watching activity in Alaska and the impact of vessel traffic on whales. Please refer to the preamble to the proposed rule (65 FR 39336) and the accompanying Environmental Assessment (EA) for further background on the implementation of protective measures around humpback whales off Alaska.

The primary objective of limiting approaches around humpback whales is to minimize disturbance that could adversely affect the individual animal and to manage the threat to these animals caused by whale watching activities.

The potential for harm to humpback whales from vessel traffic has increased in recent years as the human environment in coastal Alaska has changed. Whale watching has increased in popularity and substantially more vessels are operating from several coastal communities in southeast Alaska and in southcentral Alaska (see EA). In addition, humpback whales are generally distributed throughout coastal waters during the summer months. Intensive feeding activity often keeps these whales in the same or general locations for extended periods of time. These localized aggregations of feeding humpback whales are easily accessible from a number of coastal communities.

This combination of factors may make humpback whales off Alaska particularly vulnerable to pressure from increasing vessel-based human activities. As a result, NMFS has determined that precautionary measures must be taken to protect the humpback whale.

The humpback whale is listed as endangered under ESA. Implementation of protective regulations is consistent with and under the authority of both the ESA and the MMPA. Section 11(f) of the ESA provides NMFS with broad rulemaking authority to enforce the provisions of the ESA. In addition, section 112(a) of the MMPA provides NMFS with broad authority to prescribe regulations that are necessary to carry out the purposes of the statute (see proposed rule for further details).

Changes From the Proposed Rule

NMFS proposed to prohibit approaches within 200 yds (182.8 m) of a humpback whale, by any means, including by interception, within 200 miles of the coast of Alaska. NMFS also proposed to prohibit the disruption of normal behavior or prior activity of a whale. In response to comments received during the public comment period NMFS is making the following changes in the final rule for this action:

NMFS is (1) prohibiting approaches within 100 yds (91.4 m) instead of the 200 yd (182.8 m) distance as outlined in the proposed rule; (2) implementing a ''slow, safe speed'' requirement within proximity of a humpback whale; and (3)creating exemptions for vessels limited in their ability to maneuver; commercial fishing vessels lawfully engaged in actively setting, retrieving or closely tending commercial fishing gear; and state, local or Federal government vessels operating in the course of official duty. Details of these changes are discussed below.

In this final rule NMFS prohibits anyone, with exceptions, from approaching by any means, including by interception, within 100 yds (91.4 m) of any humpback whale within 200 nautical miles of Alaska, or within inland waters of the state. ''Inland waters'' refers to the navigable waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States (33 U.S.C. 2003(o)).

NMFS proposed a 200-yd (182.8-m) minimum approach distance in the proposed rule. NMFS received a number of comments (11 of 42) that specifically opposed the 200-yd (182.8-m) approach distance. Commenters stated that the distance was a significant departure from the 100-yd distance established in the Marine Mammal Viewing Guidelines (Guidelines). Commenters also noted that the 200-yd (182.8-m) distance was inconsistent with the 100-yd (91.4-m) distance established for approaches to humpback whales in Hawaii.

NMFS has decided to implement a 100-yd (91.4-m) distance to maintain consistency with the published Guidelines and with the regulations that exist for viewing humpback whales in Hawaii. Also, compliance will be essential to effective implementation of these regulations. Currently the industry is operating under the 100-yd (91.4-m) guideline. This distance is generally recognized as the minimum approach distance for waters around Alaska. Consistency with this guideline should contribute substantially towards achieving industry compliance.

NMFS is also implementing in the final rule a ''slow, safe speed'' requirement when a vessel is near a humpback whale. A large number of commenters (17 of 42) responding to the proposed rule requested that NMFS implement speed restrictions. The request for implementation of a speed limit was the prevailing comment received during the public comment period. Laist et al. (2001), in a study of worldwide occurrences of whales struck by ships, indicated that most lethal or severe injuries to whales struck by vessels occurs by ships traveling 14 knots (kts) or faster. The authors recommend that in areas where special caution is needed to avoid such events, measures to reduce the vessel speed below 14 kts may be beneficial.

While Laist et al. (2001) indicate that most lethal or severe injuries are caused by ships 80 meters long or longer, the potential also exists for smaller vessels traveling at fast speeds to injure a whale. This could be particularly the case for some of the coastal areas in waters off Alaska where whale density is high, whale surfacings unpredictable, and vessel traffic great.

NMFS believes that some form of speed restrictions should be imposed to reduce the likelihood of mortality or injury to a whale in the event of a vessel/whale collision. Implementation of a specific speed limit (e.g., less than 14 kts) throughout the state or even in local, specifically designated areas was, however, considered problematic from an enforcement and practical perspective. Practical impediments to using specific speed limits include the fact that ''clutch-in speed'' of vessels varies. For some vessels, the ''clutch-in speed'' may be greater than 10 kts. Practically as well as for enforceability, a safe speed standard, rather than a strict nautical mile-per-hour standard is appropriate.

NMFS is, therefore, implementing a requirement for ''slow, safe speed'' when a vessel is near humpback whales. In this situation, the U.S. Coast Guard recommends that operational guidance for vessels use language that mariners are familiar with, understand and accept by convention. This means application of ''safe speed'' as defined in the Inland Navigational Rules and the International Regulations for Preventing Collisions at Sea 1972 (COLREGS)(33 U.S.C. 2006 and 33 U.S.C. 1602, respectively). Implicit here is the recognition that mariners must adjust speeds to accommodate hazards that they may encounter during the course of operations. NMFS is extending this application to vessels operating around humpback whales.

Operation at a ''slow, safe speed'' will allow vessels sufficient time to vary course and speed to reduce the potential for a strike. The COLREGS Rule 6 defines operation such that ''every vessel shall at all times proceed at a safe speed so that she can take proper and

effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.'' A slow safe speed around whales will provide enhanced safety to the whale, the vessel and the passengers onboard the vessel.

NMFS notes that particular ''hot spots'' of concern in coastal Alaska contain higher concentrations of whales and vessel traffic. These areas are generally focal areas for whale watching activity as well as major thoroughfares for large ship traffic.

While NMFS is implementing the requirement for a slow, safe speed for all waters off Alaska when near a humpback whale, NMFS encourages vessel operators to pay particular attention to maintaining a slow, safe speed in areas of high whale density. Some of these areas include parts of Southeast Alaska such as Frederick Sound; Chatham Strait; North Pass, which is between the north end of Shelter Island and the south end of Lincoln Island near Juneau; Point Adolphus, near Gustavus; and the Sitka Sound area. Reduced speeds in these areas will likely minimize the potential for collisions and reduce the likelihood of serious injuries or mortalities should an inadvertent collision occur.

Three additional modifications in the final rule from the proposed rule were made: (1) an exemption for commercial fishing vessels while commercial fishing, (2) an exemption for vessels limited in their ability to maneuver, and (3) an exemption for state, local and Federal government vessels operating in the course of official duty. These exemptions have been included in response to public comment and due consideration by NMFS.

NMFS is exempting commercial fishing vessels lawfully engaged in actively setting, retrieving or closely tending commercial fishing gear. For purposes of this regulation commercial fishing means taking or harvesting fish or fishery resources to sell, barter or trade. Commercial fishing does not include commercial passenger fishing operations (i.e., charter operations or sport fishing activities).

Commercial fishing vessels are not actively seeking whales. Commercial fishermen usually avoid setting gear close to whales to prevent injury to the whale and damage to the fishing gear. In some instances commercial fishing vessels may find themselves, while actively fishing, in close proximity to a humpback whale. Fishing operational requirements may preclude these vessels from adhering to the approach prohibition without compromising their gear or catch. Therefore, NMFS is exempting these vessels while they are fishing.

NMFS is specifically not exempting commercial fishing vessels in transit. Commercial fishing vessels in transit should be able to abide by the approach restrictions in the same way as other transiting vessels or those purposefully approaching humpback whales. Abiding by these regulations should not cause commercial fishermen in transit significant alterations in their path or the time taken to get to a fishing ground to set or to retrieve gear.

NMFS is exempting vessels limited in their ability to maneuver. Certain vessel types and some vessels in certain situations may find it necessary to closely approach a humpback whale to maintain safe operating conditions. Limitations in maneuverability could pose hazards to the vessel should it be required to adhere to the whale approach regulations. The primary motivation for this exemption is vessel and personal safety. Some examples of vessels that may be restricted in their ability to maneuver and who may be able to claim this exemption are tugs pulling large barges, vessels with deep draft that may encounter problems maneuvering in narrow and/or shallow passageways, vessels laying cable or other similar vessel types or situations.

Finally, NMFS is also exempting state, local and Federal government vessels operating in the course of official duty. The activities of these vessels are often critical to important safety missions or other activities that require that they closely approach a humpback whale. Examples of this type of operation may be Coast Guard vessels engaged in a search and rescue operation, military ships undertaking activities critical to national security, local or state government enforcement or safety operations, research vessels, or vessels engaged in disentangling a humpback whale or other marine mammals. These examples are not meant to be exhaustive. There may be other situations in which vessels limited in their ability to maneuver or state, local or Federal government vessels would be exempt from approaches within 100 yds (91.4 m) of a humpback whale. A requirement of any of the above-mentioned exemptions is that any person who claims the applicability of an exception to the approach regulations has the burden of proving that the exemption applies.

Section 10(e) of the ESA provides an exemption to the Section 9 ''take'' prohibition for Alaska Natives harvesting threatened or endangered species for subsistence purposes. While humpback whales are not currently harvested off Alaska, nothing in this regulation is intended to affect the rights of Alaska Natives under the exemption provided in Section 10(e).

Comments and Responses

NMFS received 42 letters of comment in response to a request for comments in the proposed rule. Many letters contained similar comments and are consolidated. Response to comments addressing significant issues and requiring a reply are summarized below.

Comment 1: Eleven (of 42) commenters supported making the 100-yd (91.4-m) approach distance in the current Alaska Marine Mammal Viewing Guidelines the regulatory approach distance.

Response: NMFS concurs. Please see preamble to the final rule for further explanation on this change from the proposed rule.

Comment 2: Twelve commenters supported the 200-yd (182.8-m) proposed approach distance.

Response: While some comments supported the proposed 200-yd (182.8-m) approach limit, NMFS believes that maintaining consistency with regulations governing approaches to humpback whales in Hawaii, as well as with the Guidelines already established for waters off Alaska is important.

Comment 3: Seventeen commenters supported the inclusion of speed limits in regulations. Some suggested a speed limit range of 10-14 knots.

Response: NMFS concurs that some measure of restricting speed is necessary. Laist et al. (2001) showed a critical threshold speed of 14 kts below which serious injury and mortality of whales struck by vessels was minimized. The implementation of a specific speed limit is problematic from a practical and enforcement standpoint. However, to minimize the chance of whale/vessel collisions and the potential for serious injury or mortality NMFS is requiring that vessels maintain a slow, safe speed in proximity to a humpback whale. See the preamble to the final rule for further details.

Comment 4: NMFS did not do enough public outreach on the regulations. In general more public outreach is needed. Commercial operators should be included in the process of creating regulations.

Response: NMFS conducted extensive public outreach upon publication of the Marine Mammal Viewing Guidelines (Guidelines) in 1996. NMFS distributed the Guidelines brochures widely throughout Alaska, both in their original versions and later as they were revised. Public meetings were also held in key coastal communities around the state to

increase public awareness of and compliance with the Guidelines. NMFS has met regularly with interested industry groups to discuss marine mammal viewing and the Guidelines. In addition, prior to the development of the proposed rule NMFS solicited input statewide. NMFS contacted the public, industry, environmental groups and other interested parties, through a direct mailout letter as well as through paid advertisements in coastal newspapers throughout the state.

Comment 5: A combination of measures would be more effective than merely having an approach distance; i.e., combine approach distances with speed and time limits around animals and limits on number of vessels permitted within a certain radius of a humpback whale.

Response: In the final rule NMFS combined a minimum approach distance with a general speed restriction. A combination approach has advantages in that it is more comprehensive. However, enforcement of detailed combinations is difficult. As a result, NMFS has chosen to implement some of these measures as regulations and retain the other measures as guidelines. The Marine Mammal Viewing Guidelines, which contain some of the other measures mentioned in the comment, will remain in place as additional guidance for vessel behavior around humpback whales as well as around other marine mammal species. The Guidelines present a comprehensive approach to appropriate marine mammal viewing by combining measures such as minimum approach distances, time spent with an animal and general suggestions for vessel-, air- and land-based operations.

Comment 6: NMFS must dedicate sufficient resources to enforcement to make the regulations work.

Response: The Alaska Enforcement Division (AED) of the NMFS is dedicated to protecting all of the living marine resources in Alaska. Enforcement of the regulations promulgated under the MMPA and the ESA has been, and will continue to remain a priority, which is balanced with other priorities, for the AED. The AED recently purchased six patrol vessels that are capable of safely operating in any waters in Alaska where humpback whale watching is likely to occur. These resources provide increased capability for Special Agents and Enforcement Officers to prevent violations from occurring by providing transportation to coastal communities to educate the general public, to respond to reports of violations, and to enforce regulations.

Comment 7: NMFS should develop a permit or certification system. This could either be a government permit system or an industry-developed certification program. NMFS should consider granting some privileges to those with certification or a permit.

Response: Several private industry groups within the state have discussed and/or attempted to implement an industry-based certification program for whale watching activities within the state. This kind of effort is likely to improve voluntary compliance.

A government permit system may be more problematic. It would require a certain infrastructure that NMFS is not able to support at this time. A limited entry permit system may be warranted at some point; however, further analysis and discussions would be needed prior to consideration of a limited entry permit system. As mentioned in the EA, this type of system presents significant issues of equity in deciding the criteria for admission.

A permit system that simply provides a means to register vessels engaged in whale watching activity would, however, provide a better means to understand the nature of the industry.

Should a permit or certification program be considered in the future, NMFS would consider all aspects of implementation, including whether or not the granting of privileges to permittees should occur.

Comment 8: NMFS should exempt certain vessel classes or vessel types such as fishing vessels, those in the course of official duty (e.g., for the U.S. government), those limited in their ability to maneuver, or sport trollers. Other commenters suggested that no vessels should be exempt, particularly kayaks.

Response: NMFS agrees with the suggestion to exempt certain vessel types and vessels under certain circumstances. NMFS has incorporated into the final rule an exemption for commercial fishing vessels lawfully and actively engaged in setting, retrieving or closely tending their gear; vessels limited in their ability to maneuver; and state, local and federal government vessels during the course of official duty. Please see the section above on Changes from the Proposed Rule for further details on these exemptions.

NMFS agrees that vessels such as kayaks should not be exempt from the 100-yd (91.4-m) prohibition or be subject to some lesser distance. While kayaks, because they are small and virtually silent, could possibly approach whales closer than 100 yds (91.4 m) without causing a disturbance, empirical data does not exist to support such a conclusion. NMFS believes that a conservative approach of requiring all whale watch vessels (including kayaks) to adhere to the 100-yd (91.4-m) approach restriction provides the appropriate degree of protection. Further, allowing different classes of vessels to approach at different distances would make enforcement extremely difficult.

NMFS has not exempted other sport fishers such as trollers. Recreational fishers often also watch whales and could therefore cause undue disturbance to these animals. Sport fishers should be in a position to abide by the approach prohibition.

Comment 9: Many commenters noted that they have seen a rapid increase in the charter fleet numbers in recent years.

Response: NMFS agrees. Comprehensive data on the number of vessels engaged in whale watching or conducting wildlife charters are, however, difficult to obtain. The best available information indicates that the charter boat industry has increased substantially in the last 10 years.

Comment 10: Commenters suggested that a distance regulation might not be the most effective measure to protect whales. This regulation would also place a burden on those who know the whales the best, i.e. the whale watching industry.

Response: The intent of any whale watch regulation is to provide protection to the animals being viewed. A distance regulation can be an effective, practical and enforceable tool to manage vessel activity in the presence of whales. A distance regulation creates a buffer zone around the whale. This buffer zone should provide protection from disturbance caused by close approaches. It is also easily understandable for the public and easily enforceable.

While those involved in the whale watch industry may have significant experience with whale behavior this does not obviate the fact that vessel presence and proximity may affect the behavior of the whale. Thus, because the objective of whale watch vessels is to get relatively close to a whale the regulations on approaches would minimize the potential for harm by limiting this encroachment.

Comment 11: NMFS should include avoidance measures for those instances when the vessel operator finds him/herself closer than the minimum approach distance to the whale.

Response: Instances may occur in which a vessel finds itself within the minimum approach distance of a whale. This is most likely to occur when a

whale approaches a vessel. NMFS considered the implementation of avoidance measures for these circumstances in the development of the proposed regulations. NMFS concluded that requiring vessels to engage in avoidance measures could cause more disturbance than if vessels remained in their original position.

In tightly constrained areas of coastal Alaska, with potentially many vessels observing a whale at the same time, the requirement for avoidance measures may cause vessels to constantly be in motion as whales shift locations. As a result, avoidance measures have the potential to cause greater disturbance to the animals being viewed and could be dangerous to both the whales and the vessel.

Comment 12: More strict regulations will have a negative economic impact on charter operators. Customers will be disappointed by not being able to get closer to the whales and this will result in damage to business.

Response: NMFS has chosen to implement the status quo minimum approach distance specified in the Guidelines. Thus, the final regulation for approaches will not be more strict than the current recommendation. Because we are not differing from the status quo, the promulgation of regulations should not significantly alter customer satisfaction or participation in whale watch activities.

Comment 13: NMFS should extend the regulations to cover all whales. Untrained observers cannot be expected to distinguish among species.

Response: The different species of baleen whales could potentially be confused by inexperienced observers. However, the distribution of baleen species in Alaska and the patterns of whale watch traffic are such that most whale watch activity is conducted largely on humpback whales as the primary baleen species. Whale watch vessels in specific locations may encounter gray or fin whales. However, in locations where these other two species occur the vessel operators and naturalists are generally well-versed in species identification. NMFS chose to focus these regulations on interactions with humpback whales because of the local distribution patterns of this species and the concern over the greater pressure placed on this species by whale watch vessels.

Comment 14: NMFS should require that dedicated lookouts be posted on vessels.

Response: Dedicated whale watching vessels are the focus of this regulation to minimize impacts to humpback whales. These vessels typically have dedicated naturalists onboard searching for whales for their clients. Other than recreational vessels, for which it would not be practical to require dedicated lookouts, most vessels transiting coastal Alaska waters will have pilot house personnel who are actively scanning the water for hazards to navigation, including large cetaceans.

Comment 15: NMFS is targeting one group (charter operators) whose overall numbers are few compared to all boats on the water.

Response: While the number of whale watch charter vessels may be few compared to the overall number of vessels operating in coastal Alaska, charter boats, by the nature of their operation, have the greatest interaction with, and, therefore, the greatest potential to cause harm to, humpback whales. The intent of the regulation is to manage vessels interacting around humpback whales so that disturbance and harm to this species is minimized.

Comment 16: NMFS did not adequately justify the approach distance of 200 yds (182.8 m) over 100 yds (91.4 m) in the proposed rule.

Response: The proposed rule and the accompanying EA give details supporting the proposed implementation of a 200-yd (182.8-m) versus a 100-yd (91.4-m) minimum approach distance. In this final rule NMFS is implementing a 100-yd (91.4-m) minimum approach distance; therefore further explanation for a 200-yd (182.8-m) minimum approach distance is moot.

Comment 17: Where are cases of non-compliance documented?

Response: The Office of Enforcement records all complaints received by that office concerning non-compliance with the Guidelines or the MMPA and ESA. The Protected Resources Division in the Alaska Region also keeps on file any report of non-compliance received by that office.

Comment 18: One commenter noted observations of blatant violations of the Marine Mammal Viewing Guidelines and supports implementation of regulations.

Response: NMFS acknowledges that non-compliance with the Guidelines occurs. The regulations implemented here are designed to protect the whales and to provide an enforcement tool to respond to situations of non-compliance.

Comment 19: Current laws and guidelines are working well in places that one commenter visits.

Response: NMFS acknowledges that in some situations the Guidelines may be adequate to manage interactions with humpback whales. While compliance with the Guidelines may occur in some localized areas, universal compliance does not occur. The preamble to the proposed rule and the accompanying EA provide greater detail with respect to the inadequacy of the Guidelines.

Comment 20: One commenter suggested that a prohibition on interception of whales (leapfrogging) may make people pursue whales.

Response: NMFS reminds readers that pursuit is prohibited under the ESA.

Comment 21: The proposed rule did not provide an explanation of the link between a change in a whale's behavior as caused by a vessel and the biological significance of such a change.

Response: NMFS interprets biological significance to mean a change in vital rate parameters. The potential for vessel traffic to affect whales can occur on two levels: 1) short-term behavioral changes that disturb the animal or 2) long-term effects that result in changes to vital rates (e.g., reproductive or survival rate). The latter type of studies necessarily entails long-term observations and are difficult to conduct. Very few studies, if any, have examined the question of the long-term effects to whales by vessel approaches.

In addition, short-term studies indicate that changes occur in humpback whale behavior in response to vessel approaches. The ESA and the MMPA prohibit the ''take'' of a marine mammal. ''Take'' is defined in part to include any act of pursuit, torment or annoyance which has the potential to disturb a marine mammal in the wild by causing disruption of behavioral patterns. NMFS believes the results of the short-term studies indicate that conservation measures should be taken before any potential long-term effects occur.

Consistent with the definition of ''take'' and the associated prohibition on ''take,'' NMFS is implementing these regulations to prevent disturbance of humpback whales that may be caused by disruption of behavioral patterns. In addition, the precautionary principle would dictate that NMFS take action to protect a species based on the information that we have that shows that vessel traffic can cause changes in a whale's behavior.

Comment 22: Further research is needed before implementing regulations.

Response: NMFS acknowledges that more research would be beneficial. However, the absence of a greater body of knowledge does not preclude the adoption of protective measures. The ESA generally requires NMFS to use the best available information in managing protected species. NMFS believes

sufficient information is available to support this action. NMFS may revise protection efforts accordingly if future research demonstrates that additional or different means of protection are needed.

Comment 23: One commenter supported the application of the precautionary principle in protecting whales.

Response: NMFS agrees. In addition to the data available on the effects of vessel traffic on whales, NMFS believes that the application of the precautionary principle in this situation is warranted.

Comment 24: Several commenters suggested that NMFS turn the current Marine Mammal Viewing Guidelines into regulations.

Response: This final rule implements the 100-yd (91.4-m) minimum approach distance as recommended in the Guidelines. The Guidelines contain other measures to protect humpback whales, as well as other marine mammals, and these measures will remain as guidelines to supplement the regulations.

Comment 25: Few good statistics exist on the number of charter vessels operating in Alaska. Related to this, one commenter noted that NMFS provided totals of vessels registered in the state but did not break out those vessels operating on inland lakes and rivers.

Response: NMFS agrees that limited information is available on charter vessels operating in Alaska. Charter vessels must obtain a business license and a Coast Guard passenger license but they are not required to indicate anywhere that they do, or do not, engage in whale watching activity. As a result, a comprehensive picture of those vessels operating as whale watch charters in the state is not available. Specific operating patterns and locations of operation are also not available. In addition, in some locations trailered vessels may be used on the ocean, in rivers and on lakes and not exclusively in one water body.

Comment 26: The table on vessel collisions in the proposed rule did not identify the types of vessels that struck humpback whales; therefore it is hard to determine what kind of vessel is causing the problem.

Response: The summary statistics of vessel strikes in Alaska originated from the Alaska Region stranding database. The numbers presented in Table 1 of the EA are minimum estimates as not all collisions are reported. These reports are also opportunistic and often provide minimal specific information. The potential exists for all vessel types to collide with a whale. NMFS wants to ensure that no vessel collisions with whales occur. The measures implemented by this regulation should minimize the potential for any vessel to collide with a whale.

Comment 27: NMFS should keep the regulations as simple as possible.

Response: NMFS acknowledges the merit of making the regulations as simple as possible, provided that they are effective in protecting the whales. Simplicity enhances enforcement as well as compliance.

Comment 28: Does NMFS have general guidelines that it recommends for viewing whales?

Response: The Alaska Region has general Marine Mammal Viewing Guidelines published on our Regional website at www.fakr.noaa.gov. These Guidelines are also available in brochure format from the Alaska Region (see **ADDRESSES**).

Comment 29: The prohibition on interception in the proposed rule would preclude any vessels from being in front of a whale which would affect educational opportunities.

Response: The prohibition on interception does not preclude vessels from being in front of a whale. The interception prohibition, does, however, preclude vessels from repositioning themselves to intercept the path of a whale as the whale moves. While educational opportunities are an important component of whale watching, the regulations are designed foremost to address the protection of the humpback whale. The specific position of the vessel in relation to the orientation of the whale should not have an impact on educational opportunities.

Comment 30: Whales react to sound, not proximity of a vessel, and NMFS should limit sound production.

Response: Whales may react to sound as well as to the physical proximity of a vessel. Management of vessel approaches to humpback whales should result in the reduction of sound in the proximate environment. The actual management of sound itself would be difficult to accomplish on a practical level. Managing sound production would ultimately require a better understanding of the effect of sound on the whale and would also entail performance standards or specifications for engine construction and sound output. This type of measure would place significant burden on current and future vessel construction. NMFS provides further details on the issue of sound management in the accompanying EA.

Comment 31: In the proposed rule documents NMFS does not provide support to their contention that ''critical feeding activity may be interrupted by close approaches.''

Response: NMFS emphasizes the use of the word ''may'' in the statement as quoted here. It logically follows that given the demonstration that vessel activity causes changes in whales' behavior (see EA for details), that a whale engaged in feeding behavior may be affected by vessel activity.

Comment 32: In citations provided in the proposed rule NMFS notes that an effect of vessel presence was seen at 400 m distance from a whale but does not mention an effect at 200 m.

Response: The study by Baker and Herman (1989), to which this comment refers, showed an effect on whale behavior from vessels as close as 400 m and as far away as 4000 m. The authors did not indicate that the 200-m distance was tested in their study. However, if a whale reacts to a vessel that is 400 m away, presumably it is also likely to react to a vessel that is closer than that distance. A distance of 400 m was not proposed in the rule because it would have appreciably diminished the viewing experience. NMFS seeks to find a balance between protecting the humpback whale and allowing opportunities for whale watching to occur.

Comment 33: One commenter asserted that 200 yds (182.8 m) seems excessive.

Response: NMFS outlined its justification for the 200 yd (182.8 m) proposal in the proposed rule and accompanying EA. At this time NMFS declines to expand on this justification because the final rule will implement a 100-yd (91.4-m) approach distance.

Comment 34: NMFS should elaborate on why the 200-yd (182.8-m) rule would provide the greatest benefit to the environment, the whales, and their prey.

Response: See response to Comment 33.

Comment 35: One commenter requested that NMFS elaborate on the statement provided in the proposed rule documents that ''the perception by many people is that whale watching vessels approach too closely to marine mammals.''

Response: NMFS has received general comments from the public that whale watch vessels get close enough to the whales to cause a disturbance. While not all individuals have accurate knowledge of how close a vessel comes to a whale, the general public is often in a position to observe the activities of whale watch vessels and the resultant behavior of whales on a routine basis. Based on these observations, many people, including those in the industry

and those familiar with boat operation, and with whale behavior in Alaska, have expressed the view to the Alaska Region that vessels are operating too closely to the whales, resulting in disturbance to the animals.

Comment 36: A commenter stated that it is important not to generalize the results of whale/vessel interactions from one area or habitat type to another.

Response: NMFS recognizes that some variation in whale response may exist under different circumstances. However, NMFS has utilized the best available data to support the decision, including data from a study of humpback whales in Glacier Bay National Park and Preserve, which is within the larger area affected by this final rule. The data from that study demonstrate behavioral changes in whales in response to vessel proximity. Given the direct relevance of this study to the animals that are to be protected, consideration of these data are appropriate in formulating management strategies for Alaska.

Comment 37: One commenter asserted that the statement in the EA that ''whales exhibit a great degree of site fidelity on their feeding grounds'' is misleading. The commenter asserts that humpback whale site-fidelity occurs with respect to large-scale population structure site fidelity and not on a smaller site-specific scale.

Response: Humpback whales returning to Alaska to feed exhibit site-fidelity on a regional basis (i.e., generalized feeding area fidelity such as returns to southeast Alaska) as well as on a more localized site-specific basis (i.e., they feed specifically off of a certain point of land) (Straley 1994, J. Straley, *pers. comm.*). Regional site fidelity occurs with animals who return to the same general feeding areas of, for example, Southeast Alaska, Prince William Sound or the Kodiak area. Site-specific fidelity does occur on a more local level (J. Straley, *pers. comm.*). For example, some animals return repeatedly to the same limited stretch of coastline near Pt. Adolphus or Glacier Bay to feed. A similar kind of site-fidelity occurs for other areas within a greater feeding region.

Comment 38: One commenter supported the discontinuation of whale watch activities if these activities invoke a dramatic change in the whales' behavior.

Response: NMFS concurs. However, no evidence exists that whale watching has resulted in a ''dramatic'' change in whale behavior. Current statutory language does prohibit an activity that disturbs or causes changes in normal behavior. Current regulations are intended to manage whale watch vessels so that these vessels do not cause changes in the whales' behavior, i.e., disturb or ''take'' a whale. NMFS believes that the new regulations will allow appropriate whale watching to occur without disturbing the animals.

Comment 39: NMFS does not make accommodations for situations in which whales approach a vessel.

Response: NMFS specifies in the preamble to the proposed rule, and in the accompanying EA, that should a whale approach a vessel within the minimum approach distance, NMFS would not require the vessel to undertake avoidance measures. NMFS recognizes that situations occur in which the whales approach the vessel under their own volition. For reasons outlined in Comment 11, NMFS is not requiring vessels to undertake avoidance measures in such instances.

Comment 40: No evidence has been presented that the Marine Mammal Viewing Guidelines, when complied with, are insufficient for minimizing disturbance to the whales.

Response: Compliance with the Guidelines should result in minimizing disturbance to whales. However, sufficient non-compliance occurs to the extent that NMFS believes that regulatory measures are necessary. The new regulatory measures are consistent with the Guidelines. These combined measures should provide protection to humpback whales.

Comment 41: The proposed distance will make photo-identification data impossible to collect. The commenter notes that bona fide researchers should have NMFS research permits but that whale watchers can make a valuable contribution to such studies.

Response: NMFS did not adopt the proposed distance of 200 yds (182.8 m) and instead adopted a distance of 100 yds (91.4 m), the same distance as the voluntary guidelines. Therefore, the NMFS regulation should not have any effect on the status quo collection of photo-identification data.

Classification

The Administrator, Alaska Region, NMFS, determined that this rule is necessary for conservation and management and is consistent with the Endangered Species Act and the Marine Mammal Protection Act.

NMFS prepared a final regulatory flexibility analysis (FRFA). A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows:

(1) Vessel-based disturbance of humpback whales is currently a problem in waters off Alaska. The MMPA and ESA prohibit the ''take,'' including harassment, of humpback whales and other marine mammals. Recognizing harassment potential, from the perspective of the vessel operator, and proving a case of harassment, from the enforcement perspective, is often difficult. NMFS, Alaska Region, therefore, implemented Marine Mammal Viewing Guidelines to provide a structure for voluntary action to prevent disturbance to marine mammals, including humpback whales, in waters off Alaska. Voluntary compliance is not achieving the Agency's conservation and management objectives. The measures implemented by this final rule will provide protection from harassment to humpback whales. (For additional detail, refer to Section 3.1 of the EA).

(2) The public commented that a regulation stricter than the 100-yd (91.4-m) voluntary guideline, such as the proposed 200-yd (182.8-m) restriction, could diminish passengers' satisfaction with the whale watch tour and hence future clientele. However, the agency has chosen to implement a 100-yd (91.4-m) minimum approach distance, which is the same as the present voluntary guidelines and which, therefore, would not affect business in the manner perceived.

(3) Although whale watching activities have been going on for some time in some areas of Alaska, the pressure has been at a level much lower than that which exists currently. Although not comprehensive, some data on the whale watch industry are available. Commercial Fisheries Entry Commission (CFEC) of the State of Alaska gathers data on charter vessels. These data represent the number of vessels in Alaska that register as charter fishing vessels. Some of the fishing charter fleet also offer whale watch charters; the CFEC statistic does not, however, include those vessels that conduct exclusively whale watching charters. In 1998, 3,670 vessels were registered as charter fishing vessels, an increase of 212 percent from 1988 (CFEC 1999). While this is not a direct measure of the universe of whale watching charters, the overlap between the charter fishing industry and the whale watching charter industry indicates that the number of charter vessels that could potentially interact with humpback whales is growing. This statistic also shows a significant increase in the charter industry over the last 10 years.

The U.S. Coast Guard state vessel registration program records all vessels under 5 net tons operating in Alaska waters. Data from 1999 indicate a total of 34,353 active vessels. This includes

2,171 commercial passenger vessels, 4,809 commercial fishing vessels, 660 rental vessels, 24,462 pleasure vessels and 1,226 in the ''other'' category. Some portion of the commercial passenger vessels are used for whale watching activities. Most of the remaining vessels could potentially interact with whales; the degree of interaction is likely to be minimal, except perhaps for pleasure craft whose operation can be directed at humpback whales. The majority of the 34,353 vessels, however, likely operate in coastal waters, overlapping to some extent with the range of the humpback whale. Although NMFS does not have information on specific vessel use patterns, the number of vessels that could interact with humpback whales has increased substantially in recent years and is likely to continue to grow.

The impact of the current level of viewing pressure, or an increased viewing pressure, may not be fully understood for many years. The risk of harm to the species from a possible delay in detecting a long-term negative response to increased pressure provides impetus to implement measures on a precautionary basis to manage vessel interaction with humpback whales in waters off Alaska.

Quantitative data from potentially affected vessel operators are not available for NMFS to precisely determine whether the affected industry sectors are small entities or not. These data are not available because the charter industry is largely unregulated and no statistics are recorded on the nature of charter operations. A qualitative assessment of the types of vessels that would be impacted indicates that the dedicated whale watch and charter vessels would be most probably directly impacted and also most likely are ''small entities,'' consistent with the SBA definitions.

For purposes of the FRFA, all whale watch vessels are conservatively assumed to be ''small entities'' within the meaning of the Regulatory Flexibility Act.

(4) The rule does not contain reporting, recordkeeping and other compliance requirements.

(5) Instead of a 200-yd (182.8-m) minimum approach distance, NMFS has chosen to implement a 100-yd (91.4-m) minimum approach distance which is the same as the present voluntary guidelines, and which would, therefore, minimize to the maximum extent possible any negative economic impact that may have occurred under the proposed rule. The industry asserts that it complies with the present 100-yd (91.4-m) voluntary guideline. Accordingly, the 100-yd (91.4-m) mandatory approach distance should have no effect on the industry. Although a variety of less restrictive measures were examined, none were selected because they would not have provided an appropriate level of protection for the whales. A variety of more restrictive measures were examined, including the proposed 200-yd (182.8-m) approach restriction, and while they would have provided a greater level of protection for the whales, they were rejected because they would have caused a greater cost to the industry.

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

List of Subjects in 50 CFR Part 224

Endangered and threatened species, Reporting and record keeping requirements.

Dated: May 23, 2001.

John Oliver,

Acting Deputy Assistant Administrator for Management and Administration, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 224 is amended as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 224 continues to read as follows:

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

2. In § 224.103, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) is added to read as follows:

§ 224.103 Special prohibitions for endangered marine mammals.

* * * * *

(b) *Approaching humpback whales in Alaska*—(1) *Prohibitions.* Except as provided under paragraph (b)(2) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, within 200 nautical miles (370.4 km) of Alaska, or within inland waters of the state, any of the acts in paragraphs (b)(1)(i) through (b)(1)(iii) of this section with respect to humpback whales (*Megaptera novaeangliae*):

(i) Approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale so that the whale surfaces within 100 yards (91.4 m) of the vessel), within 100 yards (91.4 m) of any humpback whale;

(ii) Cause a vessel or other object to approach within 100 yards (91.4 m) of a humpback whale; or

(iii) Disrupt the normal behavior or prior activity of a whale by any other act or omission, as described in paragraph (a)(4) of this section.

(2)*Exceptions.* The following exceptions apply to this paragraph (b), but any person who claims the applicability of an exception has the burden of proving that the exception applies:

(i) Paragraph (b)(1) of this section does not apply if an approach is authorized by the National Marine Fisheries Service through a permit issued under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar authorization.

(ii) Paragraph (b)(1) of this section does not apply to the extent that a vessel is restricted in her ability to maneuver and, because of the restriction, cannot comply with paragraph (b)(1) of this section.

(iii) Paragraph (b)(1) of this section does not apply to commercial fishing vessels lawfully engaged in actively setting, retrieving or closely tending commercial fishing gear. For purposes of this paragraph (b), commercial fishing means taking or harvesting fish or fishery resources to sell, barter, or trade. Commercial fishing does not include commercial passenger fishing operations (i.e. charter operations or sport fishing activities).

(iv) Paragraph (b)(1) of this section does not apply to state, local, or Federal government vessels operating in the course of official duty.

(v) Paragraph (b)(1) of this section does not affect the rights of Alaska Natives under 16 U.S.C. 1539(e).

(vi) These regulations shall not take precedence over any more restrictive conflicting Federal regulation pertaining to humpback whales, including the regulations at 36 CFR 13.65 that pertain specifically to the waters of Glacier Bay National Park and Preserve.

(3) *General measures.* Notwithstanding the prohibitions and exceptions in paragraphs (b)(1) and (2) of this section, to avoid collisions with humpback whales, vessels must operate at a slow, safe speed when near a humpback whale. ''Safe speed'' has the same meaning as the term is defined in 33 U.S.C. 2006 and the International Regulations for Preventing Collisions at Sea 1972 (see 33 U.S.C. 1602), with respect to avoiding collisions with humpback whales.

* * * * *

[FR Doc. 01–13677 Filed 5–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 010523137–1137–01; I.D. 051501C]

RIN 0648–AP29

Atlantic Tuna Fisheries; Regulatory Adjustments

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

ACTION: Temporary rule.

SUMMARY: NMFS temporarily amends the regulations governing the Atlantic bluefin tuna (BFT) fisheries to establish, for 2001 only, a deadline of 11:59 p.m. on May 31 for requesting Atlantic Tunas permit category changes. This regulatory amendment is necessary to provide vessel owners the opportunity to change their permit categories once the automated Atlantic highly migratory species (HMS) permit system is activated for the 2001 fishing year. NMFS received comments in conjunction with the 2001 proposed initial quota specifications and general category effort controls indicating that, due to technical difficulties and subsequent delay in activation of the 2001 permitting system, vessel owners were not provided an adequate opportunity to obtain their permits and/or change their permit categories prior to the previously established deadline of May 15.

DATES: Effective May 25, 2001, through May 31, 2001.

ADDRESSES: Requests for copies of the temporary rule and information on obtaining an Atlantic HMS permit should be directed to Christopher Rogers, Acting Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282. Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirement contained in this temporary rule to Christopher Rogers and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: The Atlantic tunas fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background

This temporary rule responds to certain comments on Atlantic HMS permits received in conjunction with comments received on the 2001 proposed initial quota specifications and general category effort controls (66 FR 17520, April 2, 2001). The comments on permits addressed timely activation of the automated Atlantic tunas and HMS Charter/Headboat vessel permit system and the May 15 deadline and permit category selection. NMFS has contracted the Atlantic tunas and HMS Charter/Headboat vessel permitting system to a private company, and, due to technical difficulties, there has been a delay in issuing 2001 vessel permits. In previous years vessel owners have been able to apply for new, or renew existing, permits well in advance of the May 15 permit category change deadline and prior to the start of the fishing year on June 1. The May 15 permit category change deadline is intended to prevent vessel operators from fishing in more than one category in a single fishing year.

Vessel owners have commented that, due to the delay in activation of the permit system, they have not had enough time before the permit category change deadline. This temporary rule extends the deadline to change permit categories to May 31 for 2001 only. For 2002, and beyond, the deadline reverts to May 15. This regulatory change allows vessel owners an additional 2 weeks to change permit categories prior to the beginning of the 2001 fishing season. By allowing vessel owners to choose the most appropriate category, before the start of the fishing year, this measure will further the domestic management objectives for the Atlantic tuna fisheries and maintain the objective of preventing vessel operators from fishing in more than one category in a single fishing year.

NMFS is undertaking this action as a temporary rule without prior notice and an opportunity for public comment because of the immediate need to extend the deadline. Vessel operators wishing to change fishing categories should renew permits as soon as possible prior to the revised deadline of May 31, through the automated permitting system at 1–888–872–8862 or through the internet at *http://www.nmfspermits.com.* No requests for changes to Atlantic tunas permit categories will be accepted after 11:59 p.m. on May 31, 2001. After the deadline, vessel operators who have not renewed permits for 2001 will be allowed to renew only in the same category as that issued in 2000.

Please note that regulations require that Atlantic tunas permits be carried on board the vessel and be displayed to dealers purchasing tunas. Therefore, changes in permit category are not effective until the new permit has been issued and is carried on board the vessel. Upon receipt of a new Atlantic tunas permit, any previously issued Atlantic tunas permit is rendered invalid.

Classification

This temporary rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that the regulations contained in this temporary rule are consistent with the HMS Fishery Management Plan, the Magnuson-Stevens Act, and the 1998 ICCAT recommendation (ICCAT Rebuilding Program).

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 (PRA) unless that collection of information displays a currently valid OMB control number.

This temporary rule restates, without change, a collection of information requirement subject to the PRA and approved by OMB under Control Number 0648–0327. The burden associated with Atlantic tunas vessel permits is estimated at 30 minutes per initial permit application and 6 minutes per renewal, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

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

NMFS has determined that, under 5 U.S.C. 553(b)(B), there is good cause to waive the requirement for prior notice and an opportunity for public comment on this temporary rule as such procedures would be impracticable and contrary to the public interest. Given the public interest in affording vessel owners adequate time to make necessary permit category changes, further delay in the implementation of this action to provide an opportunity for public comment would be impracticable and contrary to the public interest.

Because this temporary rule relieves a restriction, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effective date. NMFS has the ability to rapidly communicate the new deadline to fishery participants through its FAX network and HMS Information Line.

Because prior notice and opportunity for public comment for this temporary rule is not required under 5 U.S.C. 553 or by any other law, it is not subject to the analytical requirements of the Regulatory Flexibility Act. Accordingly, a Regulatory Flexibility Analysis has not been was not prepared.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: May 25, 2001.

Rolland A. Schmitten,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

2. In § 635.4, paragraph (d)(3) is suspended and a new paragraph (d)(6) is added to read as follows:

§ 635.4 Permits and fees.

* * * * *

(d) * * *

(6) Except for purse seine vessels for which a permit has been issued under this section, an owner may change the category of the vessel's Atlantic tunas or HMS Charter/Headboat permit to another category through the automated call-in permitting system at 888–872–8862 or through the internet at *http://www.usatuna.com* before the specified deadline. A vessel owner may change the category of the vessel's permit no more than once each year and only from January 1 through the deadline. After the deadline through December 31, the vessel's permit category may not be changed, regardless of a change in the vessel's ownership. In 2001, the deadline for category changes is 11:59 p.m. on May 31. In years after 2001, the deadline for category changes is 11:59 p.m. on May 15.

[FR Doc. 01–13662 Filed 5–25–01; 3:46 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 052501D]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 25, 2001, until 1200 hrs, A.l.t., July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

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

The Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) for the second season, the period April 1, 2001, through June 10, 2001, as 300 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: all rockfish of the genera *Sebastes* and *Sebastolobus*, deep water flatfish, rex sole, arrowtooth flounder, and sablefish.

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

Classification

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

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

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

Dated: May 25, 2001.

Richard W. Surdi,

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

[FR Doc. 01–13661 Filed 5–25–01; 3:33 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013-01; I.D. 052501F]

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the second seasonal apportionment of the 2001 halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 26, 2001, until 1200 hrs, A.l.t., June 10, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

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

The Pacific halibut bycatch allowance for the GOA trawl shallow-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), was established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) for the second season, the period April 1, 2001, through June 10, 2001, as 100 metric tons. The GOA trawl shallow-water species fishery was closed under § 679.20(d)(7)(i) on March 27, 2001 (66 FR 21886, May 2, 2001) and reopened on May 21, 2001 (66 FR 28679, May 24, 2001).

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for species included in the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are: Pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ''other species''.

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

Classification

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

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: May 25, 2001.

Richard W. Surdi.

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

[FR Doc. 01–13660 Filed 5–25–01; 3:33 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 052501B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season amount of the Pacific cod total allowable catch (TAC) apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 25, 2001, until 1200 hrs, A.l.t., June 10, 2001.

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

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

The 2001 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area is 1,815 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season amount of the Pacific cod TAC apportioned to vessels catching Pacific cod for

processing by the offshore component of the Central Regulatory Area of the GOA will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,565 mt, and is setting aside the remaining 250 as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA.

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

Classification

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

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: May 25, 2001.

Richard W. Surdi,

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

[FR Doc. 01–13659 Filed 5–25–01; 3:33 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 105
Thursday, May 31, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–44–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposal would require initial and repetitive inspections of the elevator tab assembly to find any damage or discrepancy; and corrective actions, if necessary. This action is necessary to prevent excessive in-flight vibrations of the elevator tab, which could lead to loss of the elevator tab and consequent loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 16, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–44–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–44–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Nenita Odesa, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2557; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–44–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–44–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports indicating high-frequency airframe vibrations of the elevator tab on certain Boeing Model 737 series airplanes during flight. Such vibrations have been attributed to excessive free-play of the elevator tab, resulting in severe damage to the elevator, elevator tab, and elevator tab control mechanism. Several reports indicated that the source of the vibration was an elevator tab vibrating due to wear of the hinges and the control system, which caused the elevator tab assemblies to come loose. Another report indicated incorrect installation of the elevator tab assembly and tab control mechanism due to improper maintenance. In one incident, a portion of the elevator tab separated from the airplane causing damage to the elevator tab, elevator, and horizontal stabilizer. In another incident there was severe damage to the airplane's elevator and elevator tab assembly. Several incidents resulted in severe structural damage to the elevator tab assembly. These conditions, if not corrected, could result in loss of the elevator tab and consequent loss of controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 737–55A1070, Revision 1, dated May 10, 2001, including Appendices A, B, and C. The inspection procedures specified in this service bulletin are listed in the table, below:

INSPECTION PROCEDURES

Work package and action specified	Figure
I—Initial detailed visual/free play inspections of the following:	
• Attachment of the elevator tab assembly at four hinge locations	3, 4
• Elevator tab trailing edge	3, 4
• Elevator tab axial	3, 4
• Elevator tab control mechanism to the horizontal stabilizer, elevator front spar, and elevator tab push rods	5–7
• Elevator tab push rods to the elevator tab mast fitting/tab rod adjustment lock nut	5–7
• Elevator tab assembly installation	8–11
Note: The service bulletin recommends scheduling the repetitive inspections to coincide with the inspections specified in Work Packages II and III.	
II—Repetitive free-play inspections of the following:	
• Elevator tab hinges 1 through 4	3, 4
• Elevator tab trailing edge	3, 4
• Elevator tab axial	3, 4
III—Repetitive free-play inspections of the following:	
• Elevator tab hinges 1 through 4	3, 4
• Elevator tab trailing edge	3, 4
• Elevator tab axial	3, 4

In addition, the service bulletin specifies corrective actions that include, among other things, repairing, replacing, reworking; and aligning and torqueing certain components. Procedures also specify the replacement of any damaged or discrepant part with a new part, or repair, as applicable. Discrepancies include loose or missing parts or excessive wear.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, this proposed AD is being issued to prevent excessive in-flight airframe vibrations of the elevator tab, which could lead to loss of the elevator tab and consequent loss of controllability of the airplane. This proposed AD requires initial and repetitive inspections of the elevator tab assembly to find any damage or discrepancy; and corrective actions, if necessary. The proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Difference Between the Service Bulletin and This Proposed AD

Although the service bulletin uses the term ''check'' for certain inspections, this AD uses the term ''inspection.''

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

There are approximately 2,790 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,080 airplanes of U.S. registry would be affected by this proposed AD.

Work package	Work hours @ $60/WH	Cost per airplane	Fleet cost
I	18	$1,080	$1,166,400
II	9	540	583,200
III	14	840	907,200

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would 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 proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory 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, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2000–NM–44–AD.

Applicability: Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, line numbers 1 through 3132 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes 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 per paragraph (d) 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 the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent excessive in-flight vibrations of the elevator tab, which could lead to loss of the elevator tab and consequent loss of controllability of the airplane, accomplish the following:

Initial/Repetitive Inspections

(a) Do the applicable initial detailed visual/free play inspections of the elevator tab assembly on the left and right sides of the airplane to find any damage or discrepancy per Work Package I of Boeing Service Bulletin 737–55A1070, Revision 1, dated May 10, 2001; at the times specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. Repeat the free-play inspections after that at intervals not to exceed 1,500 flight cycles or 2,000 flight hours, whichever comes first, per either Work Package II or Work Package III of the service bulletin.

Note 2: There is a one-way interchangeability between the free-play inspections specified in Work Packages II and III. The repetitive free-play inspections specified in Work Package II can be replaced by the repetitive free-play inspections specified in Work Package III. But the repetitive free-play inspections specified in Work Package III cannot be replaced by the repetitive free-play inspections specified in Work Package II.

(1) For airplanes having less than 4,500 total flight cycles: Before the accumulation of 4,500 total flight cycles or within 120 days after the effective date of this AD, whichever comes later.

(2) For airplanes having 4,500 or more total flight cycles: Do the inspections at the times specified in paragraph (a)(2)(i) or (a)(2)(ii), as applicable.

(i) Within 120 days after the effective date of this AD.

(ii) If the initial inspections were done before the effective date of this AD per Boeing All Operator Telex M–7200–00–00034, dated February 15, 2000: Within 1,500 flight cycles or 2,000 flight hours after the effective date of this AD, whichever comes later.

Note 3: Initial inspections done before the effective date of this AD per Boeing Alert Service Bulletin 737–55A1070, dated January 13, 2000, are considered acceptable for compliance with the initial inspections required by paragraph (a) of this AD.

Note 4: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation or assembly to find damage, failure or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

(b) Within 4,500 flight cycles or 6,000 flight hours, whichever comes first, after doing the initial inspections required by paragraph (a) of this AD: Do the free-play inspections of the elevator tab assembly on the left and right sides of the airplane to find any damage or discrepancy per Work Package III of Boeing Service Bulletin 737–55A1070, Revision 1, dated May 10, 2001. Repeat the inspections after that at intervals not to exceed 4,500 flight cycles or 6,000 flight hours, whichever comes first.

Corrective Actions

(c) If any damage or discrepancy is found after doing any inspection required by paragraphs (a) and (b) of this AD, before further flight, do the applicable corrective action per the Accomplishment Instructions of Boeing Service Bulletin 737–55A1070, Revision 1, dated May 10, 2001.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permit

(e) Special flight permits may be issued per §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 23, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–13582 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–15]

Notice of Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: This notice proposes to establish Class E airspace at Pelham Lake, VA. A helicopter Point in Space approach, has been developed for Culpeper Memorial Hospital, located in the vicinity of Pelham Lake, VA. Controlled airspace extending upward from 700 feet to 1200 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach. This action proposes to establish Class E airspace to include the Point in Space approach to Culpeper Memorial Hospital Heliport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before July 2, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–15, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–15''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the

Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at Pelham Lake, VA. An Area Navigation (RNAV) Point in Space Approach has been developed for Culpeper Memorial Hospital Heliport located in the vicinity of Pelham Lake, VA. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the approach. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration order 7400.9H dated September 1, 2000, and effective September 16, 2000, is proposed to be amended as follows:

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

* * * * *

AEA VA E5, Pelham Lake, VA (NEW)

Culpeper Memorial Hospital Heliport
(Lat. 38° 27′ 54″N—long. 78° 01′ 06″W)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of Culpepper Memorial Hospital Heliport.

* * * * *

Issued in Jamaica, New York on May 17, 2001.

F. D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–13674 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 41 and 140

RIN 3038–AB82

Designated Contract Markets in Security Futures Products: Notice-Designation Requirements, Continuing Obligations, Applications for Exemptive Orders, and Exempt Provisions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking and request for comment.

SUMMARY: The Commodity Futures Trading Commission today proposes new regulations which would provide notice procedures for a national securities exchange, a national securities association, or an alternative trading system to become a designated contract market in security futures products, in accordance with the Commodity Futures Modernization Act of 2000. The proposed regulations also would establish limited filing requirements for such notice-designated contract markets, in accordance with certain provisions of the Commodity Exchange Act, and would establish procedures permitting such notice-designated contract markets to apply for exemptive relief from any section of the Commodity Exchange Act or regulations thereunder, to the extent such an exemption is necessary or appropriate in the public interest and is consistent with the protection of investors.

DATES: Comments must be received by July 2, 2001.

ADDRESSES: Comments on the proposed rulemaking may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile to (202) 418–5536 or by electronic mail to secretary@cftc.gov. Reference should be made to ''Designated Contract Markets in Security Futures Products.''

FOR FURTHER INFORMATION CONTACT: Joshua R. Marlow, Attorney-Advisor, or David P. Van Wagner, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5490, electronic mail: jmarlow@cftc.gov or dvanwagner@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Commodity Futures Modernization Act of 2000 (''CFMA'') was signed into law.[1] Among other things, the CFMA added a provision to the Commodity Exchange Act (''Act'') that permits the trading of security futures products under the shared jurisdiction of the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') and the Securities and Exchange Commission (''SEC'').[2] Under the amended law,

[1] Pub. L. 106–554, 114 Stat. 2763. The text of the CFMA may be accessed at http://www.cftc.gov/files/ogc/ogchr5660.pdf.

[2] *See* section 251(a)(2) of the CFMA. Previously, section 2(a)(1)(B)(v) of the Act had prohibited the trading of security futures products.

The term ''security futures product'' is defined in section 1a(32) of the Act to mean ''a security future or any put, call, straddle, option, or privilege on any security future.'' The term ''security future'' is defined in section 1a(31) of the Act and specifically

Continued

security futures products may be traded on any board of trade that is designated as a contract market by the Commission pursuant to section 5 of the Act, or that is registered with the Commission as a derivatives transaction execution facility (''DTF'') pursuant to section 5a of the Act.[3]

Alternatively, section 5f of the Act permits certain entities that are otherwise regulated by the SEC to be designated contract markets for the limited purpose of trading security futures products.[4] Specifically, any board of trade that is registered with the SEC as a national securities exchange pursuant to section 6(a) of the '34 Act, is registered with the SEC as a national securities association pursuant to section 15A(a) of the '34 Act, or is an alternative trading system (''ATS'') as defined by section 1a(1) of the Act shall be a designated contract market in security futures products (''SFPCM'') if:

(1) Such national securities exchange, national securities association, or alternative trading system lists or trades no other contracts of sale for future delivery, except for security futures products;

(2) Such national securities exchange, national securities association, or alternative trading system files written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of customers; and

(3) The registration of such national securities exchange, national securities association, or alternative trading system is not suspended pursuant to an order by the Securities and Exchange Commission.[5]

The designation ''shall be effective contemporaneously with the submission of notice * * * to the Commission.''[6] Accordingly, the Commission is today proposing new regulation 41.31, which would establish notification procedures in accordance with Congress' mandate in section 5f(a)(2) of the Act.

In order to maintain such designation status with the Commission, an SFPCM would have to comply with proposed regulation 41.32, which would establish several, limited continuing obligations. These filing requirements, authorized by various recordkeeping and inspection provisions of the Act, would allow the Commission to meet its market oversight responsibilities.

Regulations 41.31 and 41.32 are proposed in a manner that the Commission believes is consistent with the intent of the CFMA. The CFMA defines a security futures product as both a ''security,'' for purposes of the '34 Act, and as a ''future,'' for purposes of the Commodity Exchange Act.[7] The practical consequence of this dual-definition is that boards of trade that are otherwise subject to the regulatory jurisdiction of only the SEC or the CFTC, but which seek to list security futures products for trading, might now be subject to both regulatory regimes. The CFMA attempts to resolve this potentially duplicative regulation by preserving the jurisdiction of an entity's primary regulator and reducing the jurisdiction of the other regulator. Accordingly, under new section 5f of the Act, a board of trade that is primarily regulated by the SEC and that seeks to list security futures products for trading is relieved from certain of the CFTC's otherwise applicable regulatory requirements. Likewise, under section 202 of the CFMA, a board of trade that is primarily regulated by the CFTC and that seeks to list security futures products for trading is relieved from certain of the SEC's otherwise applicable regulatory requirements. The Commission notes that, under the SEC proposal to implement sections 202 of the CFMA and 6(g) of the '34 Act,[8] a contract market designated under section 5 of the Act that notice-registers as a national securities exchange with the SEC in order to list security futures products for trading would be subject to more notice requirements and more periodic reporting with its non-primary regulator than a board of trade that notice-designates as an SFPCM with the CFTC. The Commission seeks comment from the public on this potential disparity. To what extent could these disparate regulatory regimes for notice-registrants create a competitive disadvantage for section 5 designated contract markets or section 5a DTFs which seek notice-registration as a national securities exchange pursuant to section 6(g) of the '34 Act? Are these differences consistent with the general intent of the CFMA to minimize the burden of shared jurisdiction?

Finally, section 5f(b)(4) of the Act permits the Commission to exempt SFPCMs from any provision of the Act or regulations thereunder, and requires that the Commission determine procedures which would allow SFPCMs to apply to the Commission for an exemption from any provision of the Act or regulations thereunder, ''to the extent (any) such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors.''[9] Accordingly, the Commission proposes new regulation 41.33 to provide SFPCMs with an opportunity to request exemptive relief from unnecessary or unduly burdensome requirements. Responsibility for considering such requests would be delegated to the Directors of the Commission's Division of Trading and Markets and Division of Economic Analysis, jointly, pursuant to paragraph (g) of proposed regulation 41.33.[10] Moreover, the Commission proposes new regulation 41.34 to exempt all SFPCMs from section 6(a) of the Act.

II. Proposed Amendments

A. Regulation 41.1—Definitions

To implement the procedures identified in proposed regulations 41.31, 41.32, 41.33, and 41.34, the Commission proposes to establish regulation 41.1, which would contain six definitions: ''alternative trading system''; ''board of trade''; ''national securities association''; ''national securities exchange''; ''rule''; and ''security futures product.'' The terms ''alternative trading system,'' ''board of trade,'' and ''security futures product'' would have the same meanings as those terms have in section 1a of the Act. The terms ''national securities exchange'' and ''national securities association'' would have the same meanings as in the '34 Act. The definition of ''rule'' would be identical to the definition for that term in Commission regulation 1.41(a)(1).[11]

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excludes, among other things, ''excluded swap transactions'' (as defined in section 2(g) of the Act). Because the CFMA also provides that options on security futures cannot be traded until at least December 21, 2003, security futures are the only security futures products that may be available for trading before such date. *See* section 2(a)(1)(D)(iii)(II) of the Act.

[3] The CFMA prescribes certain dates before which trading in security futures products shall not commence. Specifically, no trading may occur prior to August 21, 2001, at which time principal-to-principal transactions between ''eligible contract participants'' may begin. Retail transactions in security futures products may not begin until December 21, 2001. (Both starting dates are conditioned upon the registration of a futures association as a national securities association under the Securities Exchange Act of 1934 ('''34 Act'').) *See* section 202(a)(5) of the CFMA and section 6(g)(5) of the '34 Act.

[4] *See* section 252(a)(2) of the CFMA.

[5] Section 5f(a) of the Act.

[6] *Id.*

[7] *See* sections 101 and 201 of the CFMA.

[8] *See* 66 FR 26977 (May 15, 2001).

[9] Section 5f(b)(4)(A) of the Act.

[10] This proposed rulemaking specifies that SFPCM requests for exemption under proposed Commission regulation 41.33 would not be subject to the requirements of Commission regulation 140.99.

[11] Under the Commission's proposed regulatory reform rulemaking, Commission regulation 1.41(a)(1) would be deleted and replaced by Commission regulation 40.1(e). *See* 66 FR 14262 (Mar. 9, 2001). Should that proposal become final, regulation 41.1(e) would alternatively cross-

B. Regulation 41.31—Notice-Designation

The Commission proposes to establish procedures necessary for a board of trade operating as a national securities exchange, national securities association, or alternative trading system to receive designation as an SFPCM. This regulation is proposed pursuant to section 5f(a)(2) of the Act, which states that such designation may be obtained by a board of trade by filing ''written notice with the Commission in such form as the Commission, by rule, may prescribe containing such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of customers.''

The proposed content requirements of the notice relate to the Commission's abilities to maintain communication with a board of trade and to receive information about its operations, two goals that the Commission believes are ''necessary or appropriate in the public interest or for the protection of customers.'' Such notices would have to include: the name, address, and contact person of the board of trade; a description of the security futures products that the board of trade intends to make available for trading, including an identification of all facilities that would clear transactions in security futures products on behalf of the board of trade; a copy of the current rules of the board of trade; and five specific certifications by the board of trade derived from the requirements found in sections 5f and 2(a)(1)(D)(vii) of the Act.[12] If a board of trade previously filed documents with the SEC containing information which would satisfy any of these proposed informational requirements, the Commission would accept copies of such documents in lieu of the required information.

C. Regulation 41.32—Continuing Obligations

The Commission proposes regulation 41.32 in order to establish a mechanism to receive the following from an SFPCM:

(1) Notification of any change in its regulatory status with the SEC or with a futures association registered under section 17 of the Act;[13]

(2) A certification consistent with the requirements of section 2(a)(1)(D)(vii) of the Act each time the board of trade lists a new security futures product for trading;[14]

(3) Provision of a copy of any new rules or rule amendments that relate to the trading of security futures products, including any operational rules and the terms and conditions of any security futures products;[15]

(4) Upon request, information related to its business as a designated contract market in security futures products; and

(5) Upon request, a written demonstration, including supporting data, that the board of trade is in compliance with a specified provision of the Act or regulations thereunder.

This information would permit the Commission to carry out its various responsibilities under the Act and would ensure that an SFPCM continues to comply with the conditions of designation under section 5f(a) of the Act and proposed regulation 41.31.[16]

The Commission notes various recordkeeping and reporting provisions of the Act, applicable to all designated contract markets, which facilitate the Commission's general market oversight responsibilities and authorize the Commission to require this information. In particular, section 4g(b) of the Act requires that ''[e]very registered entity * * * maintain daily trading records * * * includ[ing] such information as the Commission shall prescribe by rule,'' and section 4g(d) of the Act continues, ''[d]aily trading records shall be maintained in a form suitable to the Commission. * * * Reports shall be made from the records maintained * * * in such form as the Commission may prescribe. * * * '' Moreover, sections 8(a)(1) and 2(a)(1)(D)(iv)(I) of the Act, respectively, permit the Commission to ''make such investigations as it deems necessary to ascertain the facts regarding the operations of boards of trade * * * subject to the provisions of this Act'' and to make ''such reasonable periodic or special examinations * * * as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act. * * * '' [17] Under section 3 of the Act, the Commission also has general responsibilities, among others, to prevent manipulation and other disruptions to market integrity, to ensure the financial integrity of all transactions subject to the Act, and to protect all market participants from fraud.

Proposed regulation 41.32 is not meant to be an exhaustive list of SFPCM regulatory requirements. It would simply establish several additional reporting requirements which the Commission believes are necessary to carry out its statutory mandate relative to SFPCMs. Among others, the Commission emphasizes that SFPCMs must comply with the requirements of part 16 of the Commission's regulations,[18] and must provide the Commission access to any books and records relating to transactions conducted in reliance on its designation as a contract market in security futures products.[19] The Commission reiterates that SFPCMs would remain subject to all other applicable requirements of the Act and regulations thereunder.[20]

Additionally, the Commission has authority under Section 4i of the Act to collect information on the positions of large traders.[21] This information ordinarily is provided to the Commission by futures commission merchants (''FCMs''), clearing members, and foreign brokers, pursuant to part 17 of the Commission's regulations. Part 17 will apply to the trading of security

reference Commission regulation 40.1(e). Commission regulations referred to herein are found at 17 CFR Ch. I (2000).

[12] *See* proposed regulation 41.31(a)(5)(iv). Section 2(a)(1)(D)(vii) of the Act states: ''It shall be unlawful for a board of trade to trade or execute a security futures product unless the board of trade has provided the Commission with a certification that the specific security futures product and the board of trade, as applicable, meet the criteria specified in subclauses (I) through (XI) of [section 2(a)(1)(D)(i)], except as otherwise provided in [section 2(a)(1)(D)(vi)].''

[13] A change in regulatory status would include, among other things, suspension of registration pursuant to an order by the SEC, a switch in SEC registration from ''alternative trading system'' to ''national securities exchange,'' or suspension or revocation of membership by a registered futures association.

[14] *See* note 12.

[15] A change in the clearing facilities utilized by an SFPCM would be included in this category.

[16] Similar to proposed regulation 41.31, if a board of trade previously filed documents with the SEC containing information which would satisfy any of these proposed informational requirements, the Commission would accept copies of such documents in lieu of the required information.

[17] The Commission's authority under section 2(a)(1)(D)(iv)(I) of the Act is subject to certain limitations appearing later in that provision.

[18] The Commission will consider its need for data under part 16 once it becomes more apparent how security futures products will be listed by section 5 designated contract markets, 5a DTFs, and section 5f SFPCMs. The Commission will endeavor to limit its requests to information deemed necessary for routine market surveillance.

[19] The Commission's authority to require access to books and records by SFPCMs can be found in sections 4(a)(3), 4(b), 9g(b), and 4g(d) of the Act, in addition to Commission regulation 1.31, which would be reserved under the Commission's proposed regulatory reform rulemaking. *See* 66 FR 14262 (Mar. 9, 2001).

[20] *See* note 22.

[21] Section 4i of the Act prohibits any person to ''have or obtain a long or short position in any commodity or any future of such commodity equal to or in excess of such amount as shall be fixed from time to time by the Commission, unless such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any [such] transactions or positions * * * as the Commission may by rule or regulation require * * *.''

futures products. However, the Commission is concerned that, in certain instances, part 17 might fail to capture large trader information for security futures products. For example, if an ATS operates a non-intermediated marketplace and notice-designates as an SFPCM, it is not clear who would be responsible for providing to the Commission any large trader information arising out of security futures product transactions conducted on that marketplace. The Commission contemplates amending part 17 so that, in such circumstances, the ATS itself would be required to provide large trader position information that otherwise would be provided by an FCM. The Commission requests comment regarding this approach. More generally, the Commission invites comment on whether there are other potential circumstances under which large trader position information might not be captured by part 17, in its current form, particularly in light of this proposed rulemaking.

D. Regulations 41.33(a)–(f), 41.34, and 140.99—Exemptions

Section 5f(b)(4)(A) of the Act provides that the Commission ''by rule, regulation or order, may conditionally or unconditionally exempt'' any board of trade designated as an SFPCM from any provisions of the Act or regulations thereunder, to the extent that the exemption is necessary or appropriate in the public interest and is consistent with the protection of investors. Section 5f(b)(4)(B) directs the Commission to determine the procedures by which an exemptive order under section 5f(b)(4)(A) shall be granted, and vests the Commission with sole discretion to decline to entertain any application for such an order.

Accordingly, the Commission today proposes regulation 41.33. This provision would require an SFPCM seeking an exemption to file an application with the Commission containing various information, including: the name and address of the SFPCM requesting relief, and a contact person at the SFPCM; a certification that the SEC registration of the SFPCM is not suspended pursuant to an order of the SEC; an identification of the provision(s) from which the SFPCM is requesting relief and, if applicable, whether the SFPCM is subject to similar SEC provisions; the type of relief sought; and an explanation of the need for relief, including the extent to which such relief is necessary or appropriate in the public interest and consistent with the protection of investors.

The Commission would have 90 days to review the application, but could stay the review period at any time if it determines that the application is materially incomplete. Moreover, the Commission could, in its sole discretion, decline to entertain an application for any reason, without explanation, at any time during the review period. These exemptive order procedures would become an enumerated exception to the applicability of Commission Regulation 140.99, which governs generally the form and manner of requests for exemptive letters.

The Commission also proposes new regulation 41.34, which would list the provisions of the Act from which SFPCMs would be exempted. At this time, the Commission proposes that regulation 41.34(a) list each of the statutory provisions enumerated in section 5f(b)(1) of the Act.[22] In addition, regulation 41.34(b) would include section 6(a) of the Act, which addresses applications for designation as a contract market generally and also the Commission's review of such applications. The Commission believes that including section 6(a) in regulation 41.34 would eliminate any potential confusion about its applicability to SFPCMs and would make clear that the general contract market requirements of the Commission's proposed part 38 would not apply to SFPCMs.[23] Because SFPCMs are exempted from sections 5 and 5c of the Act,[24] and those provisions are the source for much of the authority for part 38, the Commission believes that SFPCMs would not have been subject to part 38. However, because proposed § 38.1, addressing the ''scope'' of part 38 generally, states that ''[t]he provisions of this part 38 shall apply to every board of trade or trading facility that has been designated as a contract market in a commodity under section 6 of the Act,'' [25] the Commission believes that specifically exempting SFPCMs from section 6(a) of the Act would further clarify that part 38 is inapplicable to SFPCMs.[26]

In addition to the proposals above, the Commission seeks comment from boards of trade and other interested persons regarding whether there are any other provisions of the Act or regulations thereunder from which SFPCMs should be exempt by regulation. The Commission is particularly interested in commenters' views regarding, among other things, the interplay between the enumerated exemptions in sections 5f(b)(1) and (2) of the Act and the Commission's regulations generally.[27]

E. Regulation 41.33(g)—Delegation of Authority

Finally, the Commission also proposes to delegate to the Director of the Division of Trading and Markets and the Director of the Division of Economic Analysis, jointly, with the concurrence of the Commission's General Counsel, the authority to grant or deny applications for exemptive orders under proposed regulation 41.33. This proposed delegation of authority is intended to expedite the procedures described in proposed regulation 41.33 and place responsibility for them with those Commission staff members most directly involved in the relevant matters. The Commission believes that this delegation would maximize regulatory efficiency with respect to these applications.

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[22] Section 5f(b)(1) of the Act states—

A national securities exchange, national securities association, or alternative trading system that is designated as a contract market pursuant to section 5f shall be exempt from the following provisions of this Act and the rules thereunder:

(A) Subsections (c), (e), and (g) of section 4c.

(B) Section 4j.

(C) Section 5.

(D) Section 5c.

(E) Section 6a.

(F) Section 8(d).

(G) Section 9(f).

(H) Section 16.

[23] *See* note 11.

[24] *See* note 22.

[25] The Commission likely will change the phrase ''section 6 of the Act'' in proposed §§ 38.1 and 38.2 to ''section 6(a) of the Act'' when part 38 becomes final. The reason for this distinction is that other subsections in section 6 of the Act would continue to apply to SFPCMs. Likewise, although the inapplicability to SFPCMs of proposed part 40 is more certain, the Commission contemplates changing the definition of ''contract market'' in proposed § 40.1 so that it explicitly excludes SFPCMs.

[26] Notwithstanding the Commission's belief that its proposed part 38 rulemaking would not apply to SFPCMs, the Commission particularly seeks comment on whether any of the provisions of part 38 would facilitate the Commission's ability to carry out its statutory mandate with respect to SFPCMs and, thus, whether any such provisions should be incorporated into proposed regulation 41.32.

[27] Comments should indicate which provisions of the Act and regulations thereunder would be captured by the exemption in section 5f(b)(2) of the Act. That provision reads:

An alternative trading system that is a designated contract market under this section shall be required to be a member of a futures association registered under section 17 and shall be exempt from any provision of this Act that would require such alternative trading system to—

(A) Set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such alternative trading system; or

(B) Discipline subscribers other than by exclusion from trading.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''),[28] requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The regulations discussed herein would affect boards of trade seeking to be designated as a contract market in security futures products under notice procedures promulgated pursuant to section 5f(a) of the Act. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.[29] The Commission determined that contract markets are not small entities for the purpose of the RFA.[30]

The Commission further notes that section 252 of the CFMA requires the Commission to promulgate these regulations. Moreover, the regulations proposed herein would not impose any new burdens upon entities seeking to be designated as an SFPCM pursuant section 5f(a) of the Act. Rather, these regulations would facilitate exemptive relief from the more burdensome requirements in sections 5 and 5a of the Act, and regulations thereunder, that otherwise would be applicable to entities seeking to list security futures products for trading. Therefore, the Commission believes that the adoption of these regulations would reduce the burden of compliance by such entities.

Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the regulations proposed herein would not have a significant economic impact on a substantial number of small entities. The Commission nonetheless requests comment on the impact these proposed regulations may have on small entities.

B. Paperwork Reduction Act

The regulations proposed herein would contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (''PRA''), the Commission has submitted a copy of this part to the Office of Management and Budget (''OMB'') for its review.[31]

Collection of Information

Part 41, relating to security futures products, OMB Control Number 3038–AB82.

The burden associated with proposed regulation 41.31 is estimated to be 100 hours, which will result from designation as SFPCMs of various boards of trade that are otherwise subject to SEC jurisdiction. The estimated burden of the proposed new regulation was calculated as follows:

Estimated number of respondents: 20.

Reports annually by each respondent: 1.

Total annual responses: 20.

Estimated average number of hours per response: 5.

Estimated total number of hours of annual burden in fiscal year: 100.

The burden associated with proposed regulation 41.32 is estimated to be 600 hours, which will result from continuing obligations of SFPCMs to file information with the Commission. The estimated burden of the proposed new regulation was calculated as follows:

Estimated number of respondents: 20.

Reports annually by each respondent: 10.

Total annual responses: 200.

Estimated average number of hours per response: 3.

Estimated total number of hours of annual burden in fiscal year: 600.

The burden associated with proposed regulation 41.33 is estimated to be 500 hours, which will result from applications for exemptions by SFPCMs. The estimated burden of the proposed new regulation was calculated as follows:

Estimated number of respondents: 20.

Reports annually by each respondent: 1.

Total annual responses: 20.

Estimated average number of hours per response: 25.

Estimated total number of hours of annual burden in fiscal year: 500.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235 New Executive Office Building, Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are required to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. A comment to OMB is most assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5160.

C. Cost-Benefit Analysis

Section 15 of the Act, as amended by section 119 of the CFMA, requires the Commission, before promulgating a new regulation under the Act, to consider the costs and benefits of the Commission's action. The Commission recently applied the cost-benefit provisions of section 15 for the first time with respect to a final rulemaking,[32] and understands that section 15, as amended, does not require the Commission to quantify the costs and benefits of a new regulation or determine whether the benefits of the regulation outweigh its costs.

The amended section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery;[33] (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its

[28] 5 U.S.C. 601 *et seq.* (1994 and Supp. II 1996).

[29] 47 CFR 18618 (April 30, 1982).

[30] 47 FR at 18619–20.

[31] 44 U.S.C. 3501 *et seq.* An agency may not sponsor, and a person is not required to respond to, any information collection unless it displays a currently valid OMB control number.

[32] 66 FR 20740 (Apr. 25, 2001).

[33] Price discovery is not a concern relevant to this rulemaking.

costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The main areas of concern relevant to this proposal are the first two set forth in the Act, ''protection of market participants and the public'' and ''efficiency, competitiveness and financial integrity of the futures markets.'' The Commission notes that the CFMA specifically mandates that certain boards of trade be notice-designated by the Commission as a contract market if they seek to list or trade security futures products only, and that procedures be established by the Commission for such entities to apply for exemptions from the Act or regulations thereunder. Further, the Commission believes that these additional registrants may promote the efficiency and competitiveness of those futures markets on which security future products may be traded and, in turn, may serve to promote the financial integrity of those markets. The Commission has endeavored to impose minimal costs—i.e., only necessary disclosure and recordkeeping—on any of the entities involved, so that the benefits of the notice-designation and exemptive processes intended by Congress can be fully realized. The Commission further notes that submitting an application for exemptive relief is not required of SFPCMs, but rather elected on a voluntary basis.

List of Subjects

17 CFR Part 41

Contract markets, reporting and recordkeeping requirements, security futures products.

17 CFR Part 140

Authority delegations.

For the reasons discussed in the preamble, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for Part 41 would be revised to read as follows:

Authority: Pub. L. 106–554, 114 Stat. 2763, Sections 251 and 252.

2. Section 41.1 would be added as follows:

§ 41.1 Definitions.

For purposes of this part:

(a) *Alternative trading system* shall have the meaning set forth in section 1a(1) of the Act.

(b) *Board of Trade* shall have the meaning set forth in section 1a(2) of the Act.

(c) *National securities association* means a board of trade registered with the Securities and Exchange Commission pursuant to section 15A(a) of the Securities Exchange Act of 1934.

(d) *National securities exchange* means a board of trade registered with the Securities and Exchange Commission pursuant to section 6(a) of the Securities Exchange Act of 1934.

(e) *Rule* shall have the meaning set forth in Commission regulation 1.41(a)(1).

(f) *Security futures product* shall have the meaning set forth in section 1a(32) of the Act.

3. Section 41.31 would be added as follows:

§ 41.31 Designated contract markets in security futures products—notice-designation requirements.

(a) Any board of trade that is a national securities exchange, a national securities association, or an alternative trading system, and that seeks to operate as a designated contract market in security futures products under section 5f of the Act, shall so notify the Commission. Such notification shall be filed with the Secretary of the Commission at its Washington, DC, headquarters, in either electronic or hard copy form, shall be labeled as ''Notice of Designation as a Contract Market in Security Futures Products,'' and shall include:

(1) The name and address of the board of trade;

(2) The name and telephone number of a contact person designated to receive communications from the Commission on behalf of the board of trade;

(3) A description of the security futures products that the board of trade intends to make available for trading, including an identification of all facilities that would clear transactions in security futures products on behalf of the board of trade;

(4) A copy of the current rules of the board of trade; and

(5) a certification that the board of trade—

(i) will not list or trade any contracts of sale for future delivery, except for security futures products;

(ii) is registered with the Securities and Exchange Commission as a national securities exchange, national securities association, or alternative trading system, and such registration is not suspended pursuant to an order by the Securities and Exchange Commission;

(iii) will meet the criteria specified in subclauses (I) through (XI) of section 2(a)(1)(D)(i) of the Act, except as otherwise provided in section 2(a)(1)(D)(vi) of the Act, for each specific security futures product that the board of trade intends to make available for trading;

(iv) will comply with the conditions for designation under this section and section 5f of the Act, including a specific representation by any alternative trading system that it is a member of a futures association registered under section 17 of the Act; and

(v) will comply with the continuing obligations of regulation 41.32.

(b) A board of trade which files notice with the Commission under this section shall be deemed a designated contract market in security futures products upon the Commission's receipt of such notice. Accordingly, the Commission shall send prompt acknowledgment of receipt to the filer.

(c) Designation as a contract market in security futures products pursuant to this section shall be deemed suspended if the board of trade:

(1) Lists or trades any contracts of sale for future delivery, except for security futures products; or

(2) Has its registration as a national securities exchange, national securities association, or alternative trading system suspended pursuant to an order by the Securities and Exchange Commission.

4. Section 41.32 would be added as follows:

§ 41.32 Designated contract markets in security futures products—continuing obligations.

(a) A board of trade designated as a contract market in security futures products pursuant to Commission regulation 41.31 shall:

(1) Notify the Commission of any change in its regulatory status with the Securities and Exchange Commission or with a futures association registered under section 17 of the Act;

(2) Comply with the filing requirements of section 2(a)(1)(D)(vii) of the Act each time the board of trade lists a security futures product for trading;

(3) Consistent with any requirements established by the Commission, provide the Commission with any new rules or rule amendments that relate to the trading of security futures products, including both operational rules and the terms and conditions of products listed for trading on the facility, promptly after final implementation of such rules or rule amendments; and

(4) Upon request, file promptly with the Commission—

(i) such information related to its business as a designated contract market

in security futures products as the Commission may request; and

(ii) a written demonstration, containing such supporting data and other information and documents as the Commission may specify, that the board of trade is in compliance with one or more applicable provisions of the Act or regulations thereunder as specified in the request.

(b) Except as exempted under section 5f(b) of the Act or under Commission regulations 41.33 and 41.34, any board of trade designated as a contract market in security futures products pursuant to Commission regulation 41.31 shall be subject to all applicable requirements of the Act and regulations thereunder. Failure to comply shall subject the board of trade to Commission action under, among other provisions, sections 5e and 6(b) of the Act.

5. Section 41.33 would be added as follows:

§ 41.33 Designated contract markets in security futures products—applications for exemptive orders.

(a) Any board of trade designated as a contract market in security futures products pursuant to Commission regulation 41.31 may apply to the Commission for an exemption from any provision of the Act or regulations thereunder. Except as provided in sections 5f(b)(1) and 5f(b)(2) of the Act, the Commission shall have sole discretion to exempt a board of trade, conditionally or unconditionally, from any provision of the Act or regulations thereunder pursuant to this section. The Commission may issue such an exemptive order in response to an application only to the extent it finds, after review, that the issuance of an exemptive order is necessary or appropriate in the public interest and is consistent with the protection of investors.

(b) Each application for exemptive relief must comply with the requirements of this section. The Commission may, in its sole discretion, decline to entertain any application for an exemptive order under this section without explanation; provided, however, that the Commission shall notify the board of trade of such a decision in writing.

(c) Application requirements.

(1) Each application for an exemptive order made pursuant to this section must include:

(i) The name and address of the board of trade requesting relief, and the name and telephone number of a person whom Commission staff may contact to obtain additional information regarding the request;

(ii) A certification that the registration of the board of trade is not suspended pursuant to an order of the Securities and Exchange Commission;

(iii) The provision(s) of the Act or regulations thereunder from which the board of trade seeks relief and, if applicable, whether the board of trade is otherwise subject to similar provisions as a result of Securities and Exchange Commission jurisdiction; and

(iv) The type of relief requested and the order sought; an explanation of the need for relief, including all material facts and circumstances giving rise to the request; and the extent to which such relief is necessary or appropriate in the public interest and consistent with the protection of investors.

(2) Each application must be filed with the Secretary of the Commission at its Washington, DC, headquarters, in either electronic or hard copy form, signed by an authorized representative of the board of trade, and labeled ''Application for an Exemptive Order pursuant to Commission regulation 41.33.''

(d) Review period: (1) The Commission shall have 90 days upon receipt of an application for an exemptive order in which to make a determination as to whether such relief should be granted or denied.

(2) The Commission may request additional information from the applicant at any time prior to the end of the review period.

(3) The Commission may stay the review period if it determines that an application is materially incomplete; *provided, however,* that this paragraph does not limit the Commission's authority, under paragraph (b) of this section, to decline to entertain an application.

(e) Upon conclusion of the review period, the Commission shall issue an order granting or denying relief, or granting relief subject to conditions; *provided, however,* that the Commission's obligations under this paragraph shall not limit its authority, under paragraph (b) of this section, to decline to entertain an application. The Commission shall notify the board of trade in writing of its decision to grant or deny relief under this paragraph.

(f) An application for an exemptive order may be withdrawn by the applicant at any time, without explanation, by filing with the Secretary of the Commission a written request for withdrawal, signed by an authorized representative of the board of trade.

(g) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Trading and Markets and the Director of the Division of Economic Analysis, jointly, with the concurrence of the General Counsel, authority to make determinations on applications for exemptive orders pursuant to this section; *provided, however,* that:

(1) the Director of the Division of Trading and Markets or the Director of the Division of Economic Analysis may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (g) of this section; and

(2) nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Trading and Markets and the Director of the Division of Economic Analysis under paragraph (g) of this section.

6. Section 41.34 would be added as follows:

§ 41.34 Designated contract markets in security futures products—exempt provisions.

Any board of trade notice-designated as a contract market in security futures products pursuant to Commission regulation 41.31 also shall be exempt from:

(a) the following provisions of the Act, pursuant to section 5f(b)(1) of the Act:

(1) section 4c(c);
(2) section 4c(e);
(3) section 4c(g);
(4) section 4j;
(5) section 5;
(6) section 5c;
(7) section 6a;
(8) section 8(d);
(9) section 9(f);
(10) section 16; and

(b) section 6(a) of the Act, pursuant to section 5f(b)(4) of the Act.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

7. The authority citation for Part 140 would continue to read as follows:

Authority: 7 U.S.C. 4a and 12a.

8. Section 140.99 is amended by adding new paragraph (i)(3) as follows:

§ 140.99 Requests for exemptive, no-action and interpretive letters.

* * * * *

(i) * * *

(3) Requests for exemption pursuant to Commission regulation 41.33.

Issued in Washington, DC on May 22, 2001 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–13316 Filed 5–30–01; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05–01–006]

RIN 2115–AE84

Regulated Navigation Area; Cape Fear River and Northeast Cape Fear River, Wilmington, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a Regulated Navigation Area (RNA) for the Cape Fear River and Northeast Cape Fear River. This action is necessary because of the extensive channel deepening project involving dredging, drilling, and blasting being undertaken by the U. S. Army Corps of Engineers. The RNA is needed to ensure the safety of vessels transiting the Cape Fear River and Northeast Cape Fear River during dredging, drilling, and blasting operations associated with the deepening project.

DATES: Comments and related material must reach the Coast Guard on or before July 2, 2001.

ADDRESSES: You may mail comments and related material to the Waterways Management Branch (CGD05–01–006), Coast Guard Marine Safety Office Wilmington, 1502 23rd Street, Wilmington, NC 28405. Or deliver comments to the Marine Safety Office at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Management Branch of Coast Guard Marine Safety Office Wilmington maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Marine Safety Office Wilmington, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign David Dixon, Asst. Chief, Port Operations Department, Coast Guard Marine Safety Office Wilmington at (910) 772–2208, or the Waterways Management Branch at (910) 772–2180.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD 05–01–006), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

The Coast Guard is shortening the comment period on this regulation to 30 days. This proposed regulation is necessary because of the safety concerns associated with the extensive channel deepening project. The drilling, blasting, and dredging is scheduled to begin on 01 August 2001. There is insufficient time to publish a rule 30 days before the project begins and provide for a comment period longer than 30 days. It is in the public interest to have the regulation in place on 01 August 2001 when operations resume.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Marine Safety Office Wilmington at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Cape Fear River and Northeast Cape Fear River are the proposed areas to be designated as a RNA. The proposed RNA is to enhance vessel safety during the extensive channel deepening project being undertaken by the U. S. Army Corps of Engineers, which involves dredging, drilling and blasting in these areas. Current channel depths restrict the full economy of existing and future generations of deep draft vessels. This project, which is expected to last approximately six years (completion is expected by 2006), will deepen the existing channel of twenty five (25) feet at the upstream limits of the deepening project and forty (40) feet at the entrance channel to thirty four (34) feet and forty four (44) feet, respectively, to accommodate the deeper draft vessels.

Dredging work within the RNA will be conducted in five distinct areas: Ocean Bar II, Horseshoe Shoal, Passing Lane & Anchorage Basin, Big Island, and the Northeast Cape Fear River. Drilling or blasting is expected to occur within the Passing Lane & Anchorage Basin, Big Island, and the Northeast Cape Fear River work areas. Drilling and blasting is not expected to occur at the Ocean Bar II and Horseshoe Shoal work areas although dredging will still take place. During the project, the RNA will impose channel restrictions and other safety measures to facilitate the dredging operations and enhance navigation safety. The area has been and will continue to be available for use by the general public. The marine industry, and other users of the Cape Fear River and Northeast Cape Fear River, have been consulted by the U. S. Coast Guard and the U. S. Army Corps of Engineers at various fora throughout the past year. The parameters of the RNA are a direct result of the comments received from the marine industry, and the other users of the waters, and information obtained from the U. S. Army Corps of Engineers.

Discussion of Proposed Rule

The proposed RNA encompasses: All waters of the Cape Fear River and Northeast Cape Fear River from the Bald Head Shoal Channel (Entrance Channel) to mile 30.7 on the Northeast Cape Fear River.

This proposed rule is necessary to safeguard marine traffic from the dangers of the dredging, drilling, and blasting associated with the deepening project. Because of the safety issues involved, all mariners are reminded to exercise caution while transiting or operating in the RNA. The active work areas, control vessels, and blast sites will be identified via Broadcast Notice to Mariners or Local Notice to Mariners. Control vessels shall monitor VHF–FM 16.

The regulations are divided between vessel types. All vessels will be required to: inform themselves of the active work areas; contact and receive permission from the control vessel for that work area before entering the active work area; transit active work areas at no wake speed or the minimum speed necessary to maintain steerage; during blasting operations all vessels are prohibited from entering an area of 500 yards surrounding the blast site; and upon notification of a misfire or hangfire, all vessels underway in the RNA shall proceed to clear the active work area in which the misfire or hangfire occurred. These requirements are to provide for safe navigation within the RNA.

For waterway traffic management purposes, vessels over 300 gross tons and tugs with tows will be required to contact the COTP 12 hours before vessel movement within the RNA.

Specific additional restrictions are also proposed for certain vessels operating or transiting within the RNA. Vessels of 300 gross tons or greater and tugs with tows: will, prior to entering the RNA, ensure that they have sufficient propulsion and directional control to safely navigate the RNA under the prevailing conditions; will be prohibited from meeting or overtaking vessels of 300 gross tons or greater or tugs with tows in active work areas or within one nautical mile of an active work area. Vessels of 300 gross tons or greater will be prohibited from entering the RNA when they are advised that a misfire or hangfire has occurred. For any vessel with another vessel/barge in tow transiting an active work area, the hawser or wire length of the tow must not exceed 275 feet, measured from the towing bit on the tug to the point where the hawser or wire connects with the towed vessel or barge.

The proposed RNA will only be effective during the months of August, September, October, November, December and January. If there is a need to extend the proposed RNA beyond those months, we will issue a Temporary Final Rule to cover that additional time period. Publication of these Temporary Final Rules will be made in advance in the **Federal Register**, as well as through Local Broadcast Notice to Mariners.

The Captain of the Port, Wilmington may, upon written request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely.

Regulatory Evaluation

This proposed 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).

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

(1) This rule only affects a limited area of water for limited periods of time. Vessels will only be restricted from transiting the work areas during blasting operations. The estimated delays resulting from blasting are expected to last no longer than sixty (60) minutes and occur no more than two (2) times daily in any one area.

(2) Requiring vessels over 300 gross tons and tugs with tows to contact the COTP 12 hours before vessel movement within the RNA will permit the COTP to review additional traffic management considerations for vessels which are tidal dependent or draft restrictive.

(3) If deemed necessary, the Captain of the Port, Wilmington may, upon written request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. A written application for deviation must be received not less than 48 hours before intended operation and must state the need and describe the proposal.

(4) Advance notifications will be made to the local maritime community by the Local Notice to Mariners, facsimile, marine information broadcasts, and at Cape Fear Waterways Management Council meetings.

(5) Based upon discussions with and comments received from the maritime industry, other users of the waterway, and the U.S. Army Corps of Engineers, the proposed regulations have been narrowly tailored in scope to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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.

For the reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605 (b) that this Notice of Proposed Rulemaking will not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: Shipping companies, towing companies, dredging companies, commercial fishing vessels and recreational vessels.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact ENS David Dixon, Asst. Chief, Port Operations, Coast Guard Marine Safety Office Wilmington at (910) 772–2208 or the Waterways Management Branch at (910) 772–2180.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would 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 proposed 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 proposed 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 proposed rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a Regulated Navigation Area. 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 recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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 § 165.540 to read as follows:

§ 165.540 Regulated Navigation Area; Cape Fear River, Northeast Cape Fear River, Wilmington, North Carolina.

(a) *Description of the Regulated Navigation Area (RNA).* The RNA encompasses all waters of the Cape Fear River and Northeast Cape Fear River from the Bald Head Shoal Channel (Entrance Channel) to mile 30.7 on the North East Cape Fear River.

(b) *Work areas.* Dredging work within the RNA will be conducted in five distinct areas: Ocean Bar II, Horseshoe Shoal, Passing Lane & Anchorage Basin, Big Island, and the Northeast Cape Fear River. Drilling or blasting is expected to occur within the Passing Lane & Anchorage Basin, Big Island, and the Northeast Cape Fear River work areas. The blast sites within the RNA, will be identified and made available to the public through: Broadcast Notice to Mariners or Local Notice to Mariners; direct contact with the control vessel on channel 16 VHF–FM; direct contact with the contractor; or through the Captain of the Port on VHF marine Band Radio, channels 13 and 16; or at telephone number (910) 772–2200. In addition, dredge and blasting companies will have a control vessel present at the site of each blast.

(c) *Effective period.* This section is effective during the months of August, September, October, November, December, and January, each year.

(d) *Definitions.*

Active work area means a work area in which blasting, drilling, or dredging operations are currently taking place.

Blasting operations means the detonation of explosives on the river bottom.

Blast site means the area where explosive material is handled during loading, including the perimeter formed by the loaded blast holes and fifty (50) feet (15.2 meters) in all directions from loaded holes.

Captain of the Port means the Coast Guard officer designated by the Commandant to command the Captain of the Port Zone as described in 33 CFR part 3 subpart 3.25–20.

Control vessel means the vessel at an active work area which coordinates operations within the active work area.

Hangfire means a blast that fails to detonate at initiation, but detonates at a later time.

Mile means the distance from Bald Head Shoal Channel (Entrance Channel) to a point up river. It does not mean there is a physical aid to navigation in the channel marking the distance. Miles are measured as statute miles.

Misfire means a blast that fails to detonate completely after an attempt at initiation. Also the explosive material that failed to detonate as planned.

RNA means regulated navigation area.

Work area means those places within the RNA where dredging, drilling, and blasting shall be conducted.

(e) *Description of Work Areas in the RNA.* (1) *Ocean Bar II, mouth of Cape Fear.* The work area includes: part of Bald Head Shoal Channel, Smith Island Channel, Baldhead Caswell Channel, Southport Channel, Battery Island Channel, Lower Swash Channel, and the majority of Snows Marsh Channel. The downstream end of the work area (centerline coordinates: Latitude 33° 50′43.668″N, Longitude 78°01′40.068″W (NAD 1983)) is located southeast of Cape Fear River Channel Lighted Buoy 8 (LL 30350), approximately 2,560 feet east of the centerline of the existing Bald Head Shoal Channel. Upstream end of the work area is located 1,200 feet downstream of intersection of Snows Marsh Channel and Horseshoe Shoal Channel at turn six (mile 7.5, approximately 1,150 feet downstream of Cape Fear River Channel Lighted Buoy 25 (LL 30530/39965)).

(2) *Horseshoe Shoal.* The work area includes: Horseshoe Shoal Channel and part of Snows Marsh Channel. Downstream end of the work area is located 1,200 feet downstream of intersection of Snows Marsh Channel and Horseshoe Shoal Channel (mile 7.5, approximately 1,150 feet downstream of Cape Fear River Channel Lighted Buoy 25 (LL 30530/39965)). Upstream end of the work area is located at the intersection of Horseshoe Shoal Channel and Reaves Point Channel (mile 8.9, at about Cape Fear River Channel Lighted Buoy 27 (LL 30550/39945)).

(3) *Big Island.* The work area includes: part of Keg Island Channel, Lower Big Island Channel, Upper Big Island Channel, and part of Lower Brunswick Channel. Downstream end of the work area is approximately 2,230 feet upstream of the intersection of Upper Lilliput Channel and Keg Island Channel (mile 18.6, approximately 1,320 feet downstream of Cape Fear River Channel Lighted Buoy 46 (LL 30765) and approximately 2,300 feet upstream of Cape Fear River Channel Lighted Buoy 44 (LL 30750)). Upstream end of the work area is approximately 2,680 feet upstream of intersection of Upper Big Island Channel and Lower Brunswick Channel (mile 21.5, approximately 1,620 feet upstream of Cape Fear River Channel Lighted Buoy 56 (LL 30830) and approximately 590 feet downstream of the Carolina Power & Light Company (CP&L) overhead power line crossing).

(4) *Passing Lane and Anchorage Basin.* There are two separate work areas for this contract, separated by the Big Island Contract.

(i) Passing Lane work area is located immediately downstream of the Big Island contract work area. The work area includes: Reaves Point Channel, Lower Midnight Channel, Upper Midnight Channel, Lilliput Channel, and part of Keg Island Channel. Downstream end of Passing Lane work area is the intersection of Horseshoe Shoal Channel and Reaves Point Channel (mile 8.9, at about Cape Fear River Channel Lighted Buoy 27 (LL 30550/39945)). Upstream end of the Passing Lane work area is approximately 2,230 feet upstream of

intersection of Upper Lilliput Channel and Keg Island Channel (mile 18.6, approximately 1,320 feet downstream of Cape Fear River Channel Lighted Buoy 46 (LL 30765) and approximately 2,300 feet upstream of Cape Fear River Channel Lighted Buoy 44 (LL 30750)).

(ii) Anchorage Basin work area is located immediately upstream of the Big Island contract work area. The work area includes: part of Lower Brunswick Channel, Fourth East Jetty Channel, Between Channel, and Anchorage Basin Channel. Downstream end of Anchorage Basin work area is approximately 2,680 feet upstream of intersection of Upper Big Island Channel and Lower Brunswick Channel (mile 21.5, approximately 1,620 feet upstream of Cape Fear River Channel Lighted Buoy 56 (LL 30830) and approximately 590 feet downstream of the CP&L overhead power line crossing). Upstream end of Anchorage Basin work area is the Cape Fear Memorial Bridge (mile 27.2).

(5) *Northeast Cape Fear River.* The downstream end of the work area is the Cape Fear Memorial Bridge (mile 27.2). Upstream end of the work area (approximately mile 30.7) is on the Northeast Cape Fear River and is approximately 700 feet upstream of the turning basin located opposite Koch Sulfur Products Co. and approximately 90 feet downstream of the submerged gas pipeline crossing.

(f) *Regulations.* (1) Blasting, drilling, and dredging operations raise many safety issues for vessels transiting the RNA. All mariners are reminded to exercise caution while transiting or operating in the RNA.

(2) Active work areas, control vessels, and blast sites will be identified via Broadcast Notice to Mariners or Local Notice to Mariners. Control vessels shall monitor channel 16 VHF–FM.

(3) The following requirements apply to all vessels.

(i) All vessels shall inform themselves of the active work areas prior to entering the RNA.

(ii) All vessels shall contact and receive permission from the control vessel for that work area before entering the active work area.

(iii) All vessels transiting an active work area shall do so at no wake speed or the minimum speed necessary to maintain steerage.

(iv) During blasting operations all vessels are prohibited from entering an area of 500 yards surrounding the blast site. Upon notification of a misfire or hangfire, all vessels underway in the RNA shall proceed to clear the active work area in which the misfire or hangfire occurred.

(4) Vessels over 300 gross tons and tugs with tows are required to contact the COTP 12 hours before vessel movement within the RNA.

(5) Vessels of 300 gross tons or greater shall be prohibited from entering the RNA when they are advised that a misfire or hangfire has occurred.

(6) For any vessel with another vessel/barge in tow transiting an active work area, the hawser or wire length of the tow shall not exceed 275 feet, measured from the towing bit on the tug to the point where the hawser or wire connects with the towed vessel or barge.

(7) Vessels of 300 gross tons or greater and tugs with tows, shall, prior to entering the RNA, ensure that they have sufficient propulsion and directional control to safely navigate the RNA under the prevailing conditions.

(8) Vessels of 300 gross tons or greater and tugs with tows are prohibited from meeting or overtaking vessels of 300 gross tons or greater or tugs with tows in active work areas or within one nautical mile of an active work area.

(9) *Waiver.* The Captain of the Port, Wilmington may, upon written request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 48 hours before intended operation and must state the need and describe the proposal.

Dated: May 18, 2001.

T.C. Paar,

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

[FR Doc. 01–13644 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN132–1b; FRL–6985–4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to particulate matter emissions regulations for Illinois Cereal Mills, Incorporated (Illinois Cereal Mills). This facility is located in Marion County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulations on August 2, 2000 as an amendment to its State Implementation Plan (SIP). The revisions are the relaxation of one limit and the tightening of one other limit. These SIP revisions result in no change in the overall particulate matter emissions.

DATES: The EPA must receive written comments on this proposed rule by July 2, 2001.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Indiana's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–6524, E-Mail Address: rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean the EPA.

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I. What actions are EPA taking today?
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I. What Actions Are EPA Taking Today?

The EPA is proposing to approve revisions to the total suspended particulate emissions regulations for Illinois Cereal Mills in Marion County, Indiana. IDEM submitted the revised regulation on August 2, 2000 as an amendment to its SIP.

The revisions are the relaxation of one limit for a boiler and the tightening of one other limit for the head house portion of a grain elevator. These SIP revisions result in no change in the overall TSP emissions.

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: May 9, 2001.

Norman Neidergang,

Acting Regional Administrator, Region 5.

[FR Doc. 01–13507 Filed 5–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA40–1–7338b; FRL–6988–5]

Approval and Promulgation of Implementation Plan Louisiana; Nonattainment Major Stationary Source Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve a revision to the Louisiana State Implementation Plan (SIP), relating to ''Nonattainment New Source Review Procedures.'' This revision was submitted on July 25, 1997, by the Governor of Louisiana to EPA for approval. This revision removes a provision from the State's regulations, Title 33 of the Louisiana Administrative Code, chapter 5, section 504, that treated nitrogen oxides (NO_X) as precursors to ozone in ozone nonattainment areas. This makes the State regulation consistent with earlier actions by EPA that exempted NO_X as an ozone precursor in the Baton Rouge and Lake Charles nonattainment areas. In addition, this regulation also contains several administrative revisions that are non-substantive in nature and do not alter the meaning of the rule (such as corrections of capitalization errors).

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. The EPA has explained reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will take no further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Written comments must be received by July 2, 2001.

ADDRESSES: Written comments should be addressed to Ms. Jole C. Luehrs, Chief, Air Permits Section (6PD–R), Attention: Ms. Wendy Jacques, at the EPA Region 6 office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air Permits Section (6PD–R), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, H. B. Garlock Building, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy Jacques, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7395.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Rule which is published in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 16, 2001.

Jerry Clifford,

Acting Regional Administrator, EPA Region 6.

[FR Doc. 01–13505 Filed 5–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN126–1b; FRL–6986–3]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to particulate matter (PM) emissions regulations for the Johns Manville Corporation (Johns Manville) of Wayne County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulations on December 30, 1999 as an amendment to its State Implementation Plan (SIP). The revisions consist of increasing seven long-term limits, decreasing one short-term limit, removing an emissions source, and changing the company's name. These revisions will allow the Johns Manville facility to operate 8760 hours annually.

DATES: The EPA must receive written comments on this proposed rule by July 2, 2001.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Indiana's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 886–6524, E-Mail Address: rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean the EPA.

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I. What Action Is EPA Taking Today?

The EPA is proposing to approve revisions to the total suspended particulate (TSP) emissions regulations for Johns Manville in Wayne County, Indiana. IDEM submitted the revised regulation on December 30, 1999 as an amendment to its SIP.

The revisions consist of increasing seven long-term limits, decreasing one short-term limit, removing an emissions source, and a changing the company's name. These revisions allow the Johns Manville facility to operate 8760 hours annually.

II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: May 9, 2001.

Norman Neidergang,

Acting Regional Administrator, Region 5.

[FR Doc. 01–13503 Filed 5–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA107–5049b; FRL–6988–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Clarifying Revisions to 9 VAC 5 Chapter 40 Fuel Burning Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia regarding existing stationary sources. The revisions concern provisions covering fuel burning equipment. The intent of the revisions is to clarify the applicability of the regulation and to clearly indicate that permits may be needed for the operation of a facility. New definitions to reflect the clarification along with some additional minor changes are included in the revisions. EPA is approving these revisions to the Fuel Burning Equipment Rule in accordance with the requirements of the Clean Air Act. 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 detailed rationale for the approval is set forth in the direct final rule. 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 July 2, 2001.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, at the EPA Region III address above, or by e-mail at knapp.ruth@epa.gov.

SUPPLEMENTARY INFORMATION: For further information on this revision related to the types of equipment to which Virginia's Fuel Burning Equipment Rule applies, 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 17, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 01–13501 Filed 5–30–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 051701H]

Atlantic Highly Migratory Species; Scoping Workshop

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

ACTION: Notice of scoping workshop.

SUMMARY: NMFS will hold a scoping workshop on June 14, 2001, to discuss options for development of a statistical documentation program for Atlantic swordfish and bigeye tuna that is consistent with requirements of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

DATES: The workshop will be held on Thursday, June 14, 2001, from 1 p.m. to 5 p.m.

ADDRESSES: The scoping workshop will be held at the NOAA Fisheries Headquarters, 1315 East-West Highway, Room 7836, Silver Spring, MD 20910. Informational materials related to the workshop are available from Jill Stevenson, Highly Migratory Species Management Division, 9721 Executive Center Drive North, St. Petersburg, FL 33702, or on the Internet at www.nmfs.noaa.gov/sfa/hmspg.html.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson at 727–570–5447 or by e-mail at jill.stevenson@noaa.gov.

SUPPLEMENTARY INFORMATION: The Atlantic highly migratory species (HMS) fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Tunas Convention Act (ATCA). The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks is implemented by regulations at 50 CFR part 635. ATCA requires NMFS to implement recommendations of ICCAT, if adopted by the United States.

At its 2000 meeting, ICCAT recommended that countries establish statistical documentation programs for swordfish and bigeye tuna, modeled in principle after the Bluefin Tuna Statistical Document (BSD) program, with the aim of having the program or programs fully implemented by January 1, 2002, or as soon as possible thereafter. The United States has offered to host a meeting of technical experts from ICCAT countries prior to the November 2001 ICCAT meeting.

In anticipation of the international meeting of technical experts, NMFS solicits comments and seeks to initiate a technical discussion of existing trade documentation programs such as the BSD program and the Swordfish Certificate of Eligibility program, in light of ICCAT's recommendation that countries endeavor to harmonize all statistical document programs under their purview.

Agenda items for the scoping meeting will include:

1. Discussion of existing trade documentation programs;

2. Development of potential options for harmonization of existing and new programs; and

3. Discussion of related issues, such as enforcement issues, electronic filing of documents, validation of documentation, and other issues.

Alternative Attendance Option

NMFS recognizes that it may be difficult for interested constituents to attend this scoping meeting in Silver Spring, MD and is providing access to the meeting via conference call. The call will be a toll-free dial-in system with a limited number of ports, assigned on a first-come, first-served basis. To participate in this meeting via telephone, please contact Jill Stevenson of the Highly Migratory Species Division (see **FOR FURTHER INFORMATION CONTACT**) no later than June 11, 2001.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jill Stevenson (see **FOR FURTHER**

INFORMATION CONTACT) at least 7 days prior to the meeting.

Dated: May 24, 2001.

Richard W. Surdi,

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

[FR Doc. 01–13678 Filed 5–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 052201A]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day Council meeting, on June 13 and June 14, 2001, to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday and Thursday, June 13 and 14, at 9 a.m. and 8:30 a.m., respectively.

ADDRESSES: The meetings will be held at the Providence Biltmore Hotel, 11 Dorrance Street, Kennedy Plaza, Providence, RI 02903; telephone (401) 421–0700. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Wednesday, June 13, 2001

After introductions, the Council meeting will begin with a review and, if appropriate, approval of Council administrative and procedural policies. The Groundfish Committee will follow with its report on the development of Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP). This will include consideration of a Groundfish Committee recommendation to clarify maximum sustainable yield control rule options and the Capacity's Committee's recommendations concerning whether to address latent fishing effort in Amendment 13. During the afternoon session, the Council will review and consider approval of the draft management alternatives and Draft Environmental Impact Statement for the FMP for the Northeast Region skate complex. Lastly, there will be a presentation on bioeconomic modeling and its application to fisheries management, using the American lobster fishery as a case study.

Thursday, June 14, 2001

During the Thursday session of the meeting, the Council will receive reports on recent activities from the Council Chairman, Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. These reports will be followed by a NMFS briefing on the Essential Fish Habitat consultation process. A period for public comments will then be held. The Herring Committee will bring forward its annual specification recommendations for the 2002 fishing year. These will include optimum yield from the fishery, total allowable level of foreign fishing and joint venture processing, as well as management area total allowable catch quotas. Prior to making a decision on these specifications, the Council staff will present the annual Stock Assessment and Fishery Evaluation Report for herring. During the afternoon period, the Council's Scallop Committee will ask for consideration of a control date for vessels that target sea scallops while not on a scallop day-at-sea. A control date may be necessary because the Council is considering whether to limit the access of vessels holding general category permits as part of Amendment 10 to the Atlantic Sea Scallop FMP. The control date could apply to any vessel with or without a general category permit and/or to vessels that have a limited access scallop permit and that fish for sea scallops while not on a day-at-sea. The Council meeting will adjourn after addressing any other outstanding business.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal 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 Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

The Council will consider public comments at a minimum of two Council meetings before making recommendations to the NMFS Regional Administrator on any framework adjustment to a fishery management plan. If she concurs with the adjustment proposed by the Council, the Regional Administrator has the discretion to publish the action either as proposed or final regulations in the **Federal Register.** Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: May 24, 2001.

Richard W. Surdi,

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

[FR Doc. 01–13681 Filed 5–30–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 105
Thursday, May 31, 2001

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–010N]

International Standard-Setting Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act, Public Law 103–465, 108 Stat. 4809. It also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers the time periods from June 1, 2000, to May 31, 2001, and June 1, 2001, to May 31, 2002, seeks comments on standards currently under consideration and recommendations for new standards.

ADDRESSES: Submit any written comments to: FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, Washington, DC 20250–3700. Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments and submit a copy of your comments to the delegate from that particular committee. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Ph.D., United States Manager for Codex, U.S. Department of Agriculture, Office of the Undersecretary for Food Safety, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700; (202) 205–7760. For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in *Attachment 2* to this notice.) Documents pertaining to Codex are accessible via the World Wide Web at the following address: http://www.codexalimentarius.net. The U.S. Codex Office also maintains a website at http://www.fsis.usda.gov/OA/Codex/index.htm.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). U.S. membership in the WTO was approved and the Uruguay Round Agreements Act was signed into law by the President on December 8, 1994. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization, Codex, International Office of Epizootics, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Administrator, Food Safety and Inspection Service (FSIS), the responsibility to inform the public of the SPS standard-setting activities of Codex. The FSIS Administrator has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office, FSIS.

Codex was created in 1962 by two U.N. organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the principal international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS); and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

As the agency responsible for informing the public of the sanitary and phytosanitary standard-setting activities of Codex, FSIS publishes this notice in the **Federal Register** annually. Attachment 1 (Sanitary and Phytosanitary Activities of Codex) sets forth the following information:

1. The sanitary or phytosanitary standards under consideration or planned for consideration; and

2. For each sanitary or phytosanitary standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

c. The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

To obtain copies of those standards listed in Attachment 1 that are under consideration by Codex, please contact the Codex delegate or the U.S. Codex Office. This notice also solicits public comment on those standards that are under consideration or planned for consideration and recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The United States' delegate will facilitate public participation in the United States Government's activities relating to Codex Alimentarius. The United States' delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding United States' delegation activities to interested parties. This information will include the current status of each agenda item; the United States Government's position or preliminary position on the agenda items; and the time and place of planning meetings and debriefing meetings following Codex committee sessions. In addition, the U.S. Codex Office makes much of the same information available through its web page, http://www.fsis.usda.gov/OA/Codex. Please visit the web page or notify the appropriate U.S. delegate or the Office of U.S. Codex Alimentarius, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, if you would like to access or receive information about specific committees.

The information provided in Attachment 1 describes the status of Codex standard-setting activities by the Codex Committees for the time periods from June 1, 2000 to May 31, 2001, and June 1, 2001 to May 31, 2002. In addition, the following attachments are included:

Attachment 2: List of U.S. Codex Officials (includes U.S. delegates and alternate delegates).
Attachment 3: Timetable of Codex Sessions (June 2000 through June 2002)
Attachment 4: Definitions for the Purpose of Codex Alimentarius
Attachment 5: Part 1—Uniform Procedure for the Elaboration of Codex Standards and Related Texts
Part 2—Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts
Attachment 6: Nature of Codex Standards

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page, located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: May 14, 2001.

F. Edward Scarbrough,

United States Manager for Codex.

Attachment 1: Sanitary and Phytosanitary Activities of Codex

Codex Alimentarius Commission and Executive Committee

The Codex Alimentarius Commission will hold its Twenty-fourth Session July 2–July 7, 2001, in Geneva, Switzerland. At that time it will consider the standards, codes of practice, and related matters brought to its attention by the general subject committees, commodity committees, and member delegations.

Prior to the Commission meeting, the Executive Committee will meet June 28–29, 2001. It is composed of the chairperson, vice-chairpersons and seven members elected from the Commission, one from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South-West Pacific.

The Executive Committee at its June 2000 Session considered matters arising from reports of Codex Committees including review of standards at step 5, requests for new work, and other items brought to its attention.

Responsible Agency: USDA/FSIS

U.S. Participation: Yes

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. A Codex Maximum Limit for Veterinary Drugs (MRLVD) is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or μg/kg on a fresh weight basis) that is adopted by the Codex Alimentarius Commission to be permitted or recognized as acceptable in or on a food.

An MRLVD is based on the Acceptable Daily Intake (ADI)* and indicates the amount of residue in food that is considered to be without appreciable toxicological hazard. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical analytical methods are available.

* Acceptable Daily Intake (ADI): An estimate by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, that can be ingested daily over a lifetime without appreciable health risk (standard man = 60 kg).

The following matters, contained in ALINORM 01/31, will be considered by the Codex Alimentarius Commission at its 24th Session.

To be considered at Step 8:

Danofloxacin
Gentamicin
Imodocarb
Sarofloxacin

To be considered at Step 5/8:

Dihydrosteptomycin/Streptomycin
Doramectin

To be considered at Step 5:

Neomycin
Phoxim
Porcine Somatotropin
Thiamphenicol

Priority List of Veterinary Drugs Requiring Evaluation or Reevaluation—Substances for which a firm commitment of data has been provided:

Cefuroxime sodium
Pirlimycin hydrochloride

The Committee is continuing work on:

- Discussion paper on antimicrobial resistance.
- Draft maximum residue limits for veterinary drugs.
- Risk Analysis in the CCRVDF.
- Proposed Draft Guidelines on Residues at Injection Sites.
- Guidelines on Control of Veterinary Drug Residues in Milk and Milk Products.
- Criteria for Methods of Analysis and Sampling Issues.

• Harmonization of MRLs with CCPR, JECFA and JMPR.

Responsible Agency: HHS/FDA, USDA/FSIS

U.S. Participation: Yes

Codex Committee on Food Additives and Contaminants

The Codex Committee on Food Additives and Contaminants (CCFAC) (a) establishes or endorses permitted maximum or guideline levels for individual food additives, contaminants, and naturally occurring toxicants in food and animal feed; (b) prepares priority lists of food additives and contaminants for toxicological evaluation by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); (c) recommends specifications of identity and purity for food additives for adoption by the Commission; (d) considers methods of analysis for food additives and contaminants; and (e) considers and elaborates standards and codes for related subjects such as labeling of food additives when sold as such and food irradiation. The following matters are under consideration by the Commission at its 24th Session in July 2001. The relevant documents are ALINORMS 01/12 and 01/12A.

Risk Analysis. The Discussion Paper entitled ''Application of Risk Analysis Principles to the Work of the Codex Committee on Food Additives and Contaminants (CCFAC) and the Joint FAO/WHO Expert Committee on Food Additives (JECFA)'' will be revised for circulation and consideration at the next session of the committee.

Food Additives. To be considered at Step 8 by the 24th Session of the Codex Commission (July 2001):

• Guidelines for the Estimation of Appropriate Levels of Use of Food Additives to the Preamble of the General Standard for Food Additives (GSFA)(Annex A).

• Codex General Standard for Food Additives: Draft Food Additive Provisions in Table 1.

• Codex Advisory Specifications for the Identity and Purity of Food Additives.

To be considered at Step 5/8 of the Accelerated Procedure by the 24th Session of the Codex Commission (July 2001):

• Draft Amendments to Table 3 and its Annex of the Codex General Standard for Food Additives.

• Draft Revisions to the Codex International Numbering System for Food Additives.

To be considered at Step 5 by the 24th Session of the Codex Commission (July 2001):

• Proposed Draft Revision to the Codex Standard for Irradiated Foods.

• Proposed Draft Revisions to the Codex General Standard for Food Additives (GSFA).

The Committee is continuing work on:

• General Standard for Food Additives: Food Category System.

• General Standard for Food Additives: Draft Food Additive Provisions (in Table 1).

• Informal Quality Control Work Group—The Committee agreed to reinstate its small informal work group to perform a quality control check on the data submitted to support the food additive provisions in the Draft GSFA for the use of benzoyl peroxide, stearyl tartrate, nitrous oxide, and mineral oil.

• Proposed Draft Revised Codex Recommended International Code of Practice for the Operation of Irradiation Facilities Used for the Treatment of Food.

• International Numbering System.

• Specifications for the Identity and Purity of Food Additives.

• Discussion paper on the relationship between Codex commodity standards and the GSFA's food category system.

• Discussion paper on processing aids and additives used as carriers for other additives.

Contaminants. To be considered at Step 8 by the 24th Session of the Codex Commission (July 2001):

• Maximum Level for Patulin in Apple Juice and Apple Juice Ingredients in Other Beverages.

• Maximum Levels for Lead in fruit; small fruit, berries, grapes, vegetables (except mushrooms, hops and herbs), brassicas, leafy vegetables (except spinach), cereal grains, pulses, legumes; fruit juices, meat (cattle, sheep, pig and poultry), fat (meat and poultry), vegetable oils, edible offal of cattle, pig and poultry, milk, milk fat, wine, and infant formulae.

• Maximum Level for Aflatoxin M_1 in Milk.

• Code of Practice for Source Directed Measures to Reduce Contamination of Food with Chemicals.

• Guideline Level for Cadmium in cereals, pulses and legumes (excluding bran and germ and wheat grain, rice, soybean, and peanuts).

• Revision of the Codex Standard for Food Grade Salt: Packaging, Transportation and Storage.

To be considered at Step 5/8 by the 24th Session of the Codex Commission (July 2001):

• Proposed Draft Revised Sampling Plan for Total Aflatoxins in Peanuts Intended for Further Processing.

To be considered at Step 5 by the 24th Session of the Codex Commission (July 2001):

• Draft Maximum Level for Ochratoxin A in Wheat, Barley, Rye and derived products.

• Proposed Draft Maximum Levels for Cadmium in fruit, wheat grain and rice (including bran and germ), soybeans and peanuts, meat of cattle, poultry, pig and sheep, horse meat, and crustaceans (excluding lobster and brown meat of crab), vegetables (excluding leafy vegetables, fresh herbs, stem and root vegetables, fungi, tomatoes, and peeled potatoes), peeled potatoes, stem and root vegetables (excluding celeriac), and leafy vegetables, fresh herbs, fungi, celeriac.

The Committee is continuing work on:

• Proposed Draft Code of Practice for the Prevention of Mycotoxin Contamination in Cereals, including Annexes on Ochratoxin A, Zearalenone, Fumonisins, and Tricothecenes.

• Proposed Draft Code of Practice for the Prevention of Patulin Contamination in Apple Juice and Apple Juice Ingredients in other Beverages.

• Draft maximum levels for lead in fish, crustaceans, and bivalve mollusks.

• Draft maximum levels for cadmium in liver of cattle, poultry, pig, and sheep, kidney of cattle, poultry, pig, and sheep, and mollusks.

• Discussion paper on dioxins and dioxin like PCBs.

• Proposed Draft Code of Practice for Source Directed Measures to Reduce Dioxin Contamination of Foods.

• Position Paper on Chloropropanols.

• Discussion paper on deoxynivalenol.

• Discussion paper on aflatoxin B_1 in pistachios.

• Discussion paper on use of active chlorine.

New work:

• Elaboration of Principles for the Exposure Assessment of Contaminants and Toxins in Foods (GSCTF).

Responsible Agency: HHS/FDA

U.S. Participation: Yes

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues recommends to the Codex Alimentarius Commission establishment of maximum limits for pesticide residues for specific food items or in groups of food. A Codex Maximum Residue Limit for Pesticide (MRLP) is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities

and animal feeds. Foods derived from commodities that comply with the respective MRLPs are intended to be toxicologically acceptable, that is, consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI*, should indicate that foods complying with Codex MRLPs are safe for human consumption.

Codex MRLPs are primarily intended to apply in international trade and are derived from reviews conducted by the Joint Meeting on Pesticide Residues (JMPR) following:

(a) review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices (GAP). Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices; and

(b) toxicological assessment of the pesticide and its residue.

* Acceptable Daily Intake (ADI) of a chemical is the daily intake which, during an entire lifetime, appears to be without appreciable risk to the health of the consumer on the basis of all the known facts at the time of the evaluation of the chemical by the Joint FAO/WHO Meeting on Pesticide Residues. It is expressed in milligrams of the chemical per kilogram of body weight.

The following items will be considered by the Commission at its 24th Session in July 2001. The relevant documents are ALINORM 01/24 and 01/24A.

To be considered at Steps 5/8 and 8:

- Draft and Draft Revised Maximum Residue Limits.
- Proposed Draft and Proposed Draft Revised Maximum Residue Limits.

To be considered at Step 5:

- Proposed Draft and Proposed Draft Revised Maximum Residue Limits.

The committee is continuing work on:

- Consideration of Draft and Proposed Draft Residue Limits in Foods and Feeds.
- Paper on Trade Vulnerabilities Resulting from the Lengthy Codex MRL Process.
- Paper on Cumulative Risk Assessment Methodology.
- Paper on Acute Dietary Risk Assessment.
- Revision of Regional Diets and Information on Processing.
- Harmonization of MRL Setting for Compounds Used both as Pesticides and as Veterinary Drugs.
- Proposed Draft Amendments to the *Guidelines on the Good Laboratory Practice in Pesticide Residue Analysis and the Introduction Section of the Recommended Methods of Analysis for Pesticide Residues.*
- Revision of the List of Recommended Methods on Analysis for Pesticide Residues.
- Consideration of Elaboration of MRLs for Spices.
- Discussion paper on the Need for the Revision of the Codex Classification of Foods and Animal Feeds.
- Revision of Codex Priority Lists of Pesticides for review by JMPR.

Responsible Agency: EPA, USDA/AMS

U.S. Participation: Yes

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling:

(a) Defines the criteria appropriate to Codex Methods of Analysis and Sampling;

(b) Serves as a coordinating body for Codex with other international groups working in methods of analysis and sampling and quality assurance systems for laboratories;

(c) Specifies, on the basis of final recommendations submitted to it by the other bodies referred to in (b) above, Reference Methods of Analysis and Sampling appropriate to Codex Standards which are generally applicable to a number of foods;

(d) Considers, amends, if necessary, and endorses, as appropriate, methods of analysis and sampling proposed by Codex (Commodity) Committees, except that methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of microbiological quality and safety in food, and the assessment of specifications for food additives do not fall within the terms of reference of this Committee;

(e) Elaborates sampling plans and procedures, as may be required;

(f) Considers specific sampling and analysis problems submitted to it by the Commission or any of its Committees; and

(g) Defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The relevant document is ALINORM 01/23. The following matters will be considered for adoption by the Commission at its 24th Session in July 2001.

Proposed Amendments to the Procedural Manual:

- General Criteria for the Selection of Methods of Analysis Using the Criteria Approach.
- Relations between Commodity Committees and General Committees—Methods of Analysis and Sampling.
- Guidelines and Working Instructions to Aid the Implementation of the Criteria Approach to the Selection of Methods of Analysis for Codex Purposes.

Guidelines for Adoption by Reference for Codex Purposes:

- Harmonized IUPAC Guidelines for the Use of Recovery Information on Analytical Measurement.

New Work:

- Proposed Draft Guidelines on Measurement Uncertainty.
- Proposed Draft Guidelines for Selection Methods of Analysis directed to governments.

The committee will continue work on:

- Proposed Draft Guidelines on Sampling
- Validation of Methods: Single Laboratory Validation and Use of Proficiency Schemes.
- Endorsement of Methods of Analysis and Sampling Provisions in Codex Standards.

Responsible Agency: HHS/FDA, USDA/ARS

U.S. Participation: Yes

Codex Committee on Food Import and Export Inspection and Certification Systems

The Codex Committee on Food Import and Export Inspection and Certification Systems is charged with developing principles and guidelines for food import and export inspection and certification systems to protect consumers and to facilitate trade. Additionally, the Committee develops principles and guidelines for the application of measures by competent authorities to provide assurance that foods comply with essential requirements, especially statutory health requirements. This encompasses work on: equivalence of food inspection systems including equivalence agreements, processes and procedures to ensure that sanitary measures are implemented, and the determination of the judgement of equivalence; guidelines on food import control systems; and guidelines on food product certification and information exchange. The development of guidelines for the appropriate utilization of quality assurance systems to ensure that foodstuffs conform to requirements and to facilitate trade also are included in the Committee's terms of reference.

The following matters will be considered by the Codex Alimentarius

Commission at its 24th Session. The relevant documents are ALINORM 01/30 and 01/30A.

To be considered at Step 8:

• Draft Guidelines for Generic Official Certificate Formats and the Production and Issuance of Certificates.

To be considered at Step 5/8:

• Proposed Draft Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems.

To be considered at Step 5:

• Proposed Draft Guidelines for Food Import Control Systems.

New work:

• Consideration of the concept of ''Traceability'' in relation to food import and export inspection and certification systems.

• Revised Codex Guidelines for the Exchange of Information in Food Control Emergency Systems.

The Committee is continuing work on:

• Proposed Draft Guidelines for the Utilization and Promotion of Quality Assurance Systems; and

• Proposed Draft Guidelines on the Judgement of Equivalence of Technical Regulations Associated with Food Inspection and Certification Systems.

Responsible Agency: HHS/FDA, USDA/FSIS

U.S. Participation: Yes

Codex Committee on General Principles

The Codex Committee on General Principles deals with procedure and general matters as are referred to it by the Codex Alimentarius Commission. The following will be considered by the 24th Session of the Commission when it meets in July 2001. The relevant documents are ALINORMS 01/33 and 01/33A.

To be considered by the Commission:

• Adoption of an amendment to Rule VI.2 to the Rules of Procedure to clarify members' rights with respect to voting.

• Practical measures intended to facilitate consensus.

• Review of the Statement of Principles on the Role of Science and the Extent to which Other Factors are taken into account: Role of science and other factors in relation to risk analysis.

• Membership in the Codex Alimentarius Commission of Regional Economic Integration Organizations.

The Committee continues to work on:

• Proposed Draft Working Principles for Risk Analysis.

• Composition of the Executive Committee and related matters.

• Proposed Draft Revised Code of Ethics for International Trade in Foods.

Responsible Agency: USDA/FSIS, FDA/OC

U.S. Participation: Yes

Codex Committee on Food Labelling

The Codex Committee on Food Labelling is responsible for drafting provisions on labelling issues assigned by the Codex Alimentarius Commission. The following items will be considered by the Commission at its 24th Session in July 2001. The relevant documents are ALINORM 01/22 and 01/22A.

To be considered at Step 8:

• Draft Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (Animal Production including bees and substances for use in soil and fertilizing and conditioning).

• Draft Amendment to the General Standard for the Labelling of Prepackaged Foods—(Draft Recommendations for the Labelling of Foods Obtained through Certain Techniques of Genetic Modification/Genetic Engineering) Section 4.2.2 (allergenicity) and Section 2 (Definitions).

The Committee is continuing work on:

• Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods (Class Names)(milk protein/milk protein products).

• Proposed Draft Guidelines for the Labelling of Foods Obtained Through Certain Techniques of Genetic Modification/Genetic Engineering.

• Proposed Draft Amendment to the Guidelines on Nutrition Labelling.

• Proposed Draft Recommendations for the Use of Health Claims: Proposed Draft Guidelines for the Use of Nutrition and Health Claims.

• Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods: Quantitative Declaration of Ingredients.

• Discussion paper on Misleading Claims.

Proposed new work:

• Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods: Country of Origin Labelling.

• Review of the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (Section 5 and Annex 2).

Responsible Agency: HHS/FDA, USDA/FSIS

U.S. Participation: Yes

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene has three primary responsibilities. First, to draft basic provisions on food hygiene applicable to all food. These provisions normally take the form of Codes of Hygienic Practice for a specific commodity (e.g. bottled water) or group of commodities (e.g., milk and milk products). Second, to consider, amend if necessary, and endorse food hygiene provisions that are incorporated into specific Codex commodity standards by the Codex commodity committees. These provisions normally contain generic wording referencing the *Recommended Code of Hygienic Practice: General Principles for Food Hygiene* (ref: CAC/RCP 1–1969, Rev. 3–1997) and the *Principles for the Establishment and Application of Microbiological Criteria for Foods* (CAC/GL 21–1997) but may also include other provisions. Third, to provide general guidance to the Commission on matters relating to food hygiene. This often takes the form of providing general guidance documents such as the *Draft Principles and Guidelines for the Conduct of Microbiological Risk Assessment* and *Draft Proposed Principles and Guidelines for the Conduct of Microbiological Risk Management.* The following items will be considered by the Codex Alimentarius Commission at its 24th Session in July 2001. The relevant documents are ALINORM 01/13 and 01/13A:

To be considered at Step 8:

• Draft Code of Hygienic Practice for Bottled/Packaged Drinking Waters (other than Natural Mineral Water).

• Draft Code of Hygienic Practice for the Transport of Food in Bulk and Semi-Packed Food.

To be considered at Step 5:

• Code of Hygienic Practice for the Primary Production, Harvesting and Packing of Fresh Fruits and Vegetables (including the sprout annex).

• Code of Hygienic Practice for Ready-to-Eat Fresh Pre-Cut Fruits and Vegetables as an Annex to the Code of Hygienic Practice for the Primary Production, Harvesting and Packing of Fresh Fruits and Vegetables.

New work:

• Revision of the Code of Hygienic Practice for Eggs and Egg Products.

The committee continues to work on:

• Proposed Draft Code of Hygienic Practice for Milk and Milk Products.

• Proposed Draft Principles and Guidelines for the Conduct of Microbiological Risk Management.

• Proposed Draft Guidelines for the Control of *Listeria monocytogenes* in Foods.

• Proposed Draft Guidelines for the Hygienic Reuse of Processing Water in Food Plants.

• Proposed Draft Application of HACCP in Small and/or Less Developed Businesses.
• Discussion paper on Risk Profile of Antibiotic Resistance in Bacteria in Food.
• Discussion paper on Guidelines for Validation of Food Hygienic Control Measures.
• Discussion paper on Proposed Guidelines for Evaluating the Presence of Objectionable Matter in Food.

Responsible Agency: HHS/FDA

U.S. Participation: Yes

Codex Committee on Fresh Fruits and Vegetables

The Codex Committee on Fresh Fruits and Vegetables is responsible for elaborating worldwide standards and codes of practice for fresh fruits and vegetables. The following will be considered by the Commission at its 24th Session in July 2001. The relevant document is ALINORM 01/35.

To be considered at Step 8:
• Draft Standard for Tannia.
• Draft Standard for Papaya.
• Draft Standard for Asparagus.
• Draft Standard for Cape Gooseberry.
• Draft Minimum Juice Content Provision in the Codex Standard for Limes.

To be considered at Step 5:
• Proposed Draft Standard for Cassava.

The committee is continuing work on:
• Draft Standard for Yellow Pitahaya.
• Draft Standard for Oranges, including Guide for Use in Scoring Freezing Injury.
• Sizing sections of the Grapefruit, Lime, and Pummelo standards.
• Proposed Draft Standard for Apples.
• Proposed Draft Standard for Tomatoes.
• Proposed Draft Standard for Table Grapes.
• Proposed Draft Guide for the Quality Control of Fresh Fruits and Vegetables.
• Discussion paper on definitions of terms.

Responsible Agency: USDA/AMS

U.S. Participation: Yes

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses is responsible for studying nutritional problems referred by the Codex Alimentarius Commission. The Committee also drafts provisions on nutritional aspects for all foods and develops guidelines, general principles, and standards for foods for special dietary uses. The following will be considered by the Commission at its 24th Session in July 2001. The relevant document is ALINORM 01/26.

To be considered at Step 8:
• Guidelines for Use of Nutrition Claims—Draft Table of Conditions for Nutrient Contents (Part B containing provisions on Protein and Vitamin and Minerals).

Discontinuation of work:
• Discussion paper on Provisions of Fortification on Iodine, Iron and Vitamin A in the Guidelines of Nutrition Claims.

The committee continues work on:
• Guidelines for Use of Nutrition Claims—Draft Table of Dietary Conditions for Nutrient Claims (Part B containing Provisions on Dietary Fibre).
• Proposed Draft Revised Standards for Gluten-Free Foods.
• Proposed Draft Revised Standard for Processed Cereal-Based Foods for Infants and Young Children.
• Proposed Draft Revised Standard for Infant Formula.
• Proposed Draft Guidelines for Vitamin and Mineral Supplements.
• Proposed Draft Revision of the Advisory List(s) of Mineral Salts and Vitamin Compounds for the Use in Foods for Infants and Children.
• Discussion Paper on Review of Provisions for Vitamins and Minerals in Codex Standards: Vitamins and Minerals in Foods for Special Medical Purposes.
• Discussion Paper on Energy Conversion Factors.
• Discussion Paper on the Consideration of the Use of the Recommendations of the FAO/WHO Expert Consultation on Food Consumption and Exposure Assessment of Chemicals.
• Sports and Energy Drinks.

Responsible Agency: HHS/FDA

U.S. Participation: Yes

Codex Committee on Fish and Fishery Products

The Fish and Fishery Products Committee is responsible for elaborating standards for fresh and frozen fish, crustaceans and mollusks. The following will be considered by the 24th Session of the Commission in July 2001. The relevant document is ALINORM 01/18.

To be considered at Step 8:
• Draft Standard for Crackers from Marine and Freshwater Fish, Crustacean and Molluscan Shellfish.

To be considered at Step 5 of the Accelerated Procedure:
• Inclusion of additional species (Proposed Draft Amendment to the Canned Sardines Standard).

To be considered at Step 5:
• Proposed Draft Standard for Salted Atlantic Herring and Salted Sprats.
• Proposed Draft Code of Practice for Fish and Fishery Products (sections 1, 2.1, 2.2, 2.9, 3 to 6 and 9).

The committee continues or begins work on:
• Draft Standard for Dried Salted Anchovies.
• Proposed Draft Amendment to the Standard for Canned Sardines and Sardine-Type Products (Inclusion of an additional species).
• Proposed Draft Code of Practice for Fish and Fishery Products (other sections).
• Proposed Draft Standard for Smoked Fish.
• Proposed Draft Standard for Molluscan Shellfish.
• Proposed Draft Model Certificate for Fish and Fishery Products.
• Proposed Draft Standard for Live, Quick Frozen and Canned Bivalve Molluscs.
• Proposed Draft Amendment to the Standard for Quick Frozen Lobsters.
• Fish Content Definition and its Method of Determination.
• Proposed Draft Standard for Scallops.

Responsible Agency: HHS/FDA, USDC/NOAA/NMFS

U.S. Participation: Yes

Codex Committee on Milk and Milk Products

The Codex Committee on Milk and Milk Products is responsible for establishing international codes and standards for milk and milk products. The following will be considered at the 24th Session of the Codex Alimentarius Commission in July 2001. The reference document is ALINORM 01/11.

To be considered at Step 8:
• Draft Group Standard for Unripened Cheese Including Fresh Cheese.
• Proposed Draft Revised Standard for Edible Casein Products at Step 5/8.
• Proposed Draft Amendment to the Codex General Standard for Cheese (Description) at Step 5/8.
• Proposed Draft Amendment to the Codex Group Standard for Cheeses in Brine (Sampling) at Step 5/8.

The committee is continuing work on:
• Proposed Draft Revised Standard for Creams, Whipped Creams, and Fermented Creams.
• Proposed Draft Revised Standard for Fermented Milks.
• Proposed Draft Revised Standard for Whey Powders.
• Proposed Draft Amendment to the Codex General Standard for Cheese (Composition).

• Proposed Draft Amendment to the Codex General Standard for Cheese (Composition).
• Proposed Draft Amendment to the Codex General Standard for Cheese (Appendix on cheese rind, surface, and coating).
• Proposed Draft Revised Standard for Processed Cheese (minimum cheese content).
• Proposed Draft Revised Individual Standards for Cheese (including a new Standard for Mozzarella).
• Proposed Draft Standard for Dairy Spreads.
• Model Export Certificates for Milk Products.

New work:

• Standard for Products in Which Milk Components are Substituted by Non-Milk Components:
• Evaporated Skimmed Milk with Vegetable Fat.
• Sweetened Condensed Skimmed Milk with Vegetable Fat.
• Skimmed Milk Powder with Vegetable Fat.

Responsible Agency: USDA/AMS, HHS/FDA

U.S. Participation: Yes

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils is responsible for elaborating standards for fats and oils of animal, vegetable, and marine origin. The Committee held its 17th Session in London in February 2001. The relevant document is ALINORM 01/17. The following matters will be considered by the Codex Alimentarius Commission at its 24th Session in July 2001:

To be considered at Steps 5/8:

• Amendments to the Draft Standard for Named Vegetable Oils:
• High Oleic Acid Sunflower Oil.
• High Oleic Acid Safflower Oil.
• Code of Practice for Storage and Transport of Fats & Oils in Bulk: List of Acceptable Previous Cargoes and of Banned Immediate Previous Cargoes.

To be considered at Step 5:

• Proposed Draft Standard for Fat Spreads and Blended Spreads.

To be considered by the Committee at its next session:

• Draft Standard for Olive Oils and Olive-Pomace Oils.
• Proposed Draft Amendments to the Standard for Named Vegetable Oils:
• Super Palm Olein.
• Mid-oleic Sunflower Oil.
• Inclusion of New Desmethysterol Data and Tocopherol and Tocotrienol Data for Palm Olein, Palm Stearin, Rapeseed Oil (High Erucic Acid) and Mustard Oil.
• Draft Standard for Fat Spreads.
• Proposed Draft Amendments to the List of Acceptable Previous Cargoes and of Banned Immediate Previous Cargoes.

Responsible Agency: HHS/FDA, USDA/ARS

U.S. Participation: Yes

Codex Committee on Cocoa Products and Chocolate

The Codex Committee on Cocoa Products and Chocolate is responsible for elaborating worldwide standards for cocoa products and chocolate. The 21st Session of the Commission endorsed the recommendation of the forty-second session of the Executive Committee to initiate the revision of the Cocoa Products and Chocolate Standards. The following standards will be considered by the 24th Session of the Commission in July 2001. The relevant document is ALINORM 01/14.

To be considered at Step 8:

• Draft Revised Standard for Cocoa Butters.
• Draft Revised Standard for Cocoa (Cacao) Mass (Cocoa/Chocolate Liquor) and Cocoa Cake, for Use in the Manufacture of Cocoa and Chocolate Products.
• Draft Revised Standard for Cocoa Powders (Cocoas) and Dry Cocoa-Sugar Mixture.

To be considered at Step 5:

• Proposed Draft Standard for Chocolate and Chocolate Products.

Responsible Agency: HHS/FDA

U.S. Participation: Yes

Codex Committee on Processed Fruits and Vegetables

The Codex Committee on Processed Fruits and Vegetables is responsible for elaborating standards for Processed Fruits and Vegetables. After having been adjourned *sine die,* the Committee reconvened in Washington, DC, in March 1998 to begin work revising the standards. The following standards will be considered by the 24th Session of the Commission in July 2001. The relevant document is ALINORM 01/27.

To be considered at step 8:

• Draft Standard for Kimchi.
• Draft Revised Standard for Canned Applesauce.
• Draft Revised Standard for Canned Pears.

To be considered at step 5:

• Proposed Draft Standard for Canned Stone Fruits.
• Proposed Draft Guidelines for Packing Media in Canned Fruits.

The Committee is continuing work on:

• Draft Codex Standard for Pickled Products.
• Draft Codex Standard for Canned Bamboo Shoots.
• Draft Codex Standard for Aqueous Coconut Products.
• Proposed Draft Revised Standards.
• Canned Tomatoes.
• Processed Tomato Concentrates.
• Soy Sauce.
• Canned Vegetables.
• Citrus Fruits.
• Insam (Ginseng).
• Guidelines for Packing Media for Canned Fruits.

Other work:

• Methods of Analysis for Processed Fruits and Vegetables.

Responsible Agency: USDA/AMS, HHS/FDA

U.S. Participation: Yes

Codex Committee for Natural Mineral Waters

The Codex Committee for Natural Mineral Waters (CCNMW) is responsible for elaborating standards for natural mineral waters. The Codex Alimentarius Commission at its 22nd meeting approved the development of a standard for bottled/packaged water other than natural mineral waters. The following standards will be considered by the 24th Session of the Commission in July 2001. The relevant document is ALINORM 01/20.

To be considered at Step 5/8:

• Proposed Draft Standard for Bottled/Packaged Drinking Waters (Other Than Natural Mineral Waters).
• An amendment to the levels of Health Related Limits for Certain Substances in the Revised Codex Standard for Natural Mineral Waters (Codex STAN 108–1981:Rev. 1–1977) so that they would be consistent with the WHO Guidelines on Drinking Water.

Other matters for the Commission:

• Committee adjourned *sine die.*

Responsible Agency: HHS/FDA

U.S. Participation: Yes

Codex Committee on Sugars

The Codex Committee on Sugars elaborated standards for all types of sugars and sugar products. The Committee was adjourned *sine die,* but was asked to revise the standards for sugar and honey. The Committee prepared the revised standard for sugar by correspondence. At its 23rd Session, the Codex Alimentarius Commission adopted the Draft Revised Standard for Sugar with the exception of the levels of arsenic and lead that will be reviewed by CCFAC. However, the Committee decided that it could not prepare a Draft Revised Standard for Honey by correspondence. The United Kingdom

convened a Session of the Committee in London, England, on February 9–11, 2000 to discuss the Draft Revised Standard for Honey. The following standard will be considered by the 24th Session of the Commission in July 2001. The relevant document is ALINORM 01/25.

To be considered at Step 8:

- Draft Revised Standard for Honey.
- Proposed Amendments to the Revised Codex Standard for Sugars:

(1) Definition of Raw Cane Sugar and Soft Sugars.

(2) Food Additives and Contaminants.

(3) Methods of Analysis for inclusion in the Standard.

New work:

- Amendment to the Codex Standard for Sugar.
- Development of a Standard for Unifloral Honey.
- Completion of an addendum to the Standard for Honey covering industrial uses.

Responsible Agency: USDA/ARS, HHS/FDA

U.S. Participation: Yes

Certain Codex Commodity Committees [1]

Several Codex Alimentarius Commodity Committees have adjourned *sine die.* The following Committees fall into this category:

- *Cereals, Pulses and Legumes**
  Responsible Agency: HHS/FDA, USDA/GIPSA
  U.S. Participation: Yes

Meat Hygiene
Responsible Agency: USDA/FSIS
U.S. Participation: Yes

- *Soups and Broths*
  Responsible Agency: USDA/FSIS
  U.S. Participation: Yes
- *Vegetable Proteins*
  Responsible Agency: USDA/ARS, HHS/FDA
  U.S. Participation: Yes

[1] Adjourned sine die. The main tasks of these Committees are completed. However, the committees may be called to meet again if required.

* There is no planned activity for this Committee in the next year.

Brief reports on activities of the Codex Committees on Meat Hygiene, Soups and Broths, and Vegetable Proteins follows:

Codex Committee on Meat Hygiene

As a result of several years of work, the Codex Committee on Meat Hygiene elaborated worldwide standards and/or codes of practice as were appropriate for meat hygiene. The Committee adjourned *sine die* in 1993. The 47th Session of the Executive Committee welcomed a proposal from New Zealand that the Committee be reactivated and recommended that the work and terms of reference of the Committee be expanded to include reference to poultry, as a Codex committee had never addressed poultry hygiene. It was proposed that the next session be held in late 2001 or early 2002. The Commission will consider this recommendation when it meets in July 2001.

Responsible Agency: USDA/FSIS

U.S. Participation: Yes

Codex Committee on Soups and Broths

The Codex Committee on Soups and Broths elaborated worldwide standards for soups, broths, bouillons and consommes. The Committee adjourned *sine die.* The main tasks of the Committee were completed. However, at its June 1997 meeting, the Codex Alimentarius Commission requested that the Committee commence work revising the Standard for Bouillons and Consommes. A Draft Revised Standard for Bouillons and Consommes was approved at Step 5 by the Executive Committee at its 47th Session and was circulated at Step 6 for consideration in advance of the next Commission session. The relevant document is ALINORM 01/29.

Responsible Agency: USDA/FSIS

U.S. Participation: Yes

Codex Committee on Vegetable Proteins

The Codex Committee on Vegetable Proteins elaborated worldwide standards for vegetable protein products deriving from any member of the plant kingdom. The Committee was adjourned *sine die* in 1989. The Codex Alimentarius Commission at its 23rd Session requested that the Committee undertake a revision of the Codex Standard for Wheat Gluten. A Proposed Draft Standard for Wheat Protein Products was circulated to member countries and other interested parties for comment at Step 3. It was adopted by the 47th Session of the Executive Committee at Step 5 and was circulated at Step 6 for consideration in advance of the next Commission session.

Responsible Agency: USDA/ARS, HHS/FDA

U.S.Participation: Yes

Ad Hoc Intergovernmental Task Force on Foods Derived From Biotechnology

The Commission, at its 23rd Session, established this Task Force to develop standards, guidelines, or recommendations, as appropriate, for foods derived from biotechnology or traits introduced into foods by biotechnology, on the basis of scientific evidence, risk analysis and having regard, where appropriate, to other legitimate factors relevant to the health protection of consumers and the promotion of fair trade practices. The relevant documents are ALINORMS 01/34 and 01/34A. The following items have been forwarded to the Commission for its consideration at its 24th Session in July 2001.

To be considered at Step 5:

- Proposed Draft General Principles for the Risk Analysis of Foods Derived from Modern Biotechnology.
- Proposed Draft Guideline for the Conduct of Safety Assessment of Foods Derived from Recombinant DNA Plants.

New work:

- Proposed Draft Guidelines for the Conduct of Food Safety Assessment of Recombinant DNA Microorganisms.

The Task Force will continue work on:

- Discussion Paper on Traceability.
- Consideration of Analytical Methods.

Responsible Agency: HHS/FDA, USDA/APHIS

U.S. Participation: Yes

Ad Hoc Intergovernmental Task Force on Animal Feeding

The Commission at its 23rd Session established the Task Force to develop guidelines or standards as appropriate on Good Animal Feeding practices. The relevant documents are ALINORMS 01/38 and 01/38A. The task force discussed the following items:

- Revised Draft Code of Practice for Good Animal Feeding.
- Information paper compiling a list of internationally available standards and validated methods for the examination of feeding stuffs.
- Information paper on lists established by different governments to control the use of prohibited and undesirable substances in animal feeding stuffs or other approaches.

Responsible Agency: HHS/FDA/CVM, USDA/APHIS

U.S. Participation: Yes

Ad Hoc Intergovernmental Task Force on Fruit and Vegetable Juices

The Commission at its 23rd Session established this Task Force to revise and consolidate the existing Codex standards and guidelines for fruit and vegetable juices and related products, giving preference to general standards. These standards were originally developed by the Joint UNECE/Codex Group of Experts on the Standardization

of Fruit Juices, which had been abolished by its parent organizations. The Task Force held its first session in Brasilia, Brazil, September 18–22, 2000. It will hold a second session in Rio de Janeiro, date to be announced. The reference document is ALINORM 01/39.

The committee will be working on:

- Proposed Draft Codex General Standard for Fruit Juices and Nectars.
- Proposed Draft Revised Codex General Standard for Vegetable Juices.
- Methods of Analysis and Sampling for Fruit and Vegetable Juices and Nectars.

Responsible Agency: HHS/FDA, USDA/AMS

U.S. Participation: Yes

FAO/WHO Regional Coordinating Committees

The Codex Alimentarius Commission is made up of an Executive Committee, as well as approximately 30 subsidiary bodies. Included in these subsidiary bodies are coordinating committees for groups of countries located in proximity to each other who share common concerns. There are currently six Regional Coordinating Committees:

- Coordinating Committee for Africa.
- Coordinating Committee for Asia.
- Coordinating Committee for Europe.
- Coordinating Committee for Latin America and the Caribbean.
- Coordinating Committee for the Near East.
- Coordinating Committee for North America and the South-West Pacific.

The United States participates as an active member of the Coordinating Committee for North America and the South-West Pacific, and is informed of the other coordinating committees through meeting documents, final reports, and representation at meetings. Each regional committee:

- Defines the problems and needs of the region concerning food standards and food control;
- Promotes within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulates the strengthening of food control infrastructures;
- Recommends to the Commission the development of world-wide standards for products of interest to the region, including products considered by the committee to have an international market potential in the future; and
- Exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission.

Codex Coordinating Committee for North America and the South—West Pacific

The Coordinating Committee is responsible for defining problems and needs concerning food standards and food control of all Codex member countries of the region. The Sixth Session of the Committee was held in December 2000, in Perth, Australia. The relevant document is ALINORM 01/32. Agenda topics included the following:

- Review of acceptance and promotion of Codex standards by countries in the region;
- Activities related to economic integration and harmonization of food legislation in the region;
- Activities related to the application of risk analysis;
- Promotion of Codex activities in the Region;
- Activities of national Codex contact points and national Codex committees in the region;
- Consumer participation in the work of Codex;
- Report on activities related to biotechnology;
- Codex Strategic Vision and Medium Term Plan 2003–2007;
- Trade vulnerabilities resulting from the lengthy Codex MRL process; and
- Codex *Ad hoc* Intergovernmental Task Force on Animal Feeding.

Responsible Agency: USDA/FSIS

U.S. Participation: Yes

Attachment 2

U.S. Codex Alimentarius Officials

Codex Committee Chairpersons

Codex Committee on Food Hygiene

Dr. I. Kaye Wachsmuth, Deputy Administrator, Office of Public Health and Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 341–E, Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–2644, Fax # (202) 690–2980, E-mail: kaye.wachsmuth@usda.gov

Codex Committee on Processed Fruits and Vegetables

Mr. David L. Priester, Head, Standardization Section, AMS Fruit & Vegetable Programs, Fresh Products Branch, USDA Stop 0140, Room 2049–S, 1400 Independence Avenue, SW, Washington, DC 20250–0240, Phone #: (202) 720–2185, Fax #: (202) 720–8871, E-mail: david.priester@usda.gov

Codex Committee on Residues of Veterinary Drugs in Foods

Dr. Stephen F. Sundlof, Director, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place (HFV–1), Rockville, MD 20855, Phone #: (301) 594–1740, Fax #: (301) 594–1830, E-mail: ssundlof@cvm.fda.gov

Codex Committee on Cereals, Pulses and Legumes (adjourned *sine die*)

Mr. Steven N. Tanner, Director, Technical Services Division, Grain Inspection, Packers & Stockyards, Administration, U.S. Department of Agriculture, 10383 N. Executive Hills Blvd., Kansas City, MO 64153–1394, Phone #: (816) 891–0401, Fax #: (816) 891–0478, E-mail: stanner@tsd.fgiskc.usda.gov

Listing of U.S. Delegates and Alternate Delegates—Worldwide General Subject Codex Committees

Codex Committee on Residues of Veterinary Drugs in Foods (Host Government—United States)

U.S. Delegate: Dr. Steven D. Vaughn, Director, Division of Therapeutic Drugs for Food Animals, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place HFV–130, Rockville, MD 20855, Phone #: (301) 827–7584, Fax #: (301) 592–2297, E-mail: svaughn@cvm.fda.gov

Alternate Delegate: Dr. Richard Ellis, Special Assistant, Office of the Deputy Administrator, Office of Public Health and Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 322 Aerospace Center, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 690–6474, Fax #: (202) 690–6557, E-mail: richard.ellis@usda.gov

Codex Committee on Food Additives and Contaminants (Host Government—The Netherlands)

U.S. Delegate: Dr. Terry C. Troxell, Director, Office of Plant and Dairy Foods and Beverages, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4064, Fax #: (202) 205–4422, E-mail: TCT@cfsan.fda.gov

Alternate Delegate: Dr. Dennis M. Keefe, Office of Premarket Approval, Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 418–3113, Fax #: (202) 418–3131, E-mail: dkeefe@cfsan.fda.gov

Codex Committee on Pesticide Residues (Host Government—The Netherlands)

U.S. Delegate: Mr. Edward Zager, Associate Director, Health Effects Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, Phone #: (703) 305–5035, Fax #: (703) 305–5147, E-mail: Zager.Ed@epamail.epa.gov

Alternate Delegate: Dr. Robert Epstein, Associate Deputy Administrator, Science and Technology, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 3522S, Mail Stop 0222, Washington, DC 20090, Phone #: (202) 720–2158, Fax #: (202) 720–1484, E-mail: Robert.Epstein@usda.gov

Codex Committee on Methods of Analysis and Sampling (Host Government—Hungary)

U.S. Delegate: Dr. Gregory Diachenko, Director, Division of Product Manufacture and Use, Office of Premarket Approval, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5320, Fax #: (202) 401–8531, E-mail: gxd@cfsan.fda.gov

Alternate Delegate: Dr. Thomas Whitaker, Senior Scientist, Agricultural Research Service, U.S. Department of Agriculture, 124 Weaver Laboratory, North Carolina State University, Raleigh, NC, Phone #: (919) 515–6731, Fax #: (919) 515–7760, E-mail: thomas_whitaker@nscu.edu

Codex Committee on Food Import and Export Certification and Inspection Systems (Host Government—Australia)

Delegate: Mr. L. Robert Lake, Director, Office of Regulations and Policy (HFS–4), U.S. Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4160, Fax #: (202) 401–7739, E-mail: LRL@cfsan.fda.gov

Alternate Delegate: Mr. Mark Manis, Director, International Policy Staff, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 4434, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–6400, Fax #: (202) 720–7990, E-mail: mark.manis@usda.gov

Codex Committee on General Principles (Host Government—France)

Delegate: **Note:** A member of the Steering Committee heads the delegation to meetings of the General Principles Committee.

Codex Committee on Food Labelling (Host Government—Canada)

Delegate: Dr. Christine Lewis, Director, Office of Nutritional Products, Labeling, and Dietary Supplements, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–800), Washington, DC 20204, Phone #: (202) 205–4561, Fax #: (202) 205–4594, E-mail: Christine.Lewis@cfsan.fda.gov

Alternate Delegate: Dr. Robert Post, Director, Labeling and Consumer Protection Staff, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 602, 300 12th Street, SW, Washington, DC 20250–3700, Phone #: (202) 205–0279, Fax #: (202) 205–3625, E-mail: robert.post@usda.gov

Codex Committee on Food Hygiene (Host Government—United States)

Delegate: Dr. Robert Buchanan, Director, Office of Science, Center for Food Science and Applied Nutrition, Food and Drug Administration 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4970, Fax #: (202) 205–7740, E-mail: R4B@cfsan.fda.gov

Alternate Delegate: Dr. H. Michael Wehr (acting), Office of Constituent Operations, U.S. Food and Drug Administration, Room 5826 (HFS–550), 200 C St. SW, Washington, DC 20204, Phone #: (202) 260–2786, Fax #: (202) 401–7739, E-mail: HMW@cfsan.fda.gov

Codex Committee on Nutrition and Foods for Special Dietary Uses (Host Government—Germany)

Delegate: Dr. Elizabeth Yetley, FDA Lead Scientist for Nutrition (HFS–450), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4848, Fax #: (202) 205–5295, E-mail: EAY@cfsan.fda.gov

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Worldwide Commodity Codex Committees

Codex Committee on Fresh Fruits and Vegetables (Host Government—Mexico)

Delegate: Mr. David L. Priester, Head, Standardization Section, International Standards Coordinator, Fruit & Vegetable Programs, Agricultural Marketing Service, Room 2069, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250, Phone #: (202) 720–2184, Fax #: (202) 720–0016, E-mail: david.priester@usda.gov

Alternate Delegate: Mr. Larry B. Lace, Branch Chief, Fresh Products Branch, Fruit & Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2049, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250, Phone #: (202) 720–5870, Fax #: (202) 720–0393, E-mail: larry.lace@usda.gov

Codex Committee on Fish and Fishery Products (Host Government—Norway)

Delegate: Mr. Philip C. Spiller, Director, Office of Seafood, (HFS–400) VERB, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 418–3133, Fax #: (202) 418–3198, E-mail: PCS@cfsan.fda.gov

Alternate Delegate: Mr. Samuel W. McKeen, Director, Office of Trade and Industry Services, National Oceanic and Atmospheric Administration, NMFS, 1335 East-West Highway, Room 6490, Silver Spring, MD 20910, Phone #: (301) 713–2351, Fax #: (301) 713–1081, E-mail: samuel.mckeen@noaa.gov

Codex Committee on Cereals, Pulses and Legumes (Host Government—United States)

Delegate: Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739, E-mail: ccooper@cfsan.fda.gov

Alternate Delegate: Mr. David Shipman, Deputy Administrator, Federal Grain Inspection Division, Grain Inspection Packers and Stockyards Administration, U.S. Department of Agriculture, Room 1661, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250, Phone #: (202) 720–9170, Fax #: (202) 205–9237, E-mail: dshipman@gipsadc.usda.gov

Codex Committee on Milk and Milk Products (Host Government—New Zealand)

Delegate: Mr. Duane Spomer, Chief, Dairy Standardization Branch, U.S. Department of Agriculture, Agricultural Marketing Service, Room 2750, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250, Phone #: (202) 720–9382, Fax #: (202) 720–2643, E-mail: duane.spomer@usda.gov

Alternate Delegate: Mr. John C. Mowbray, Division of Programs and Policy Enforcement, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–1731, Fax #: (202) 205–4422, E-mail: JCM@cfsan.fda.gov

Codex Committee on Fats and Oils (Host Government—United Kingdom)

Delegate: Mr. Charles W. Cooper, Director, International Activities Staff (HFS–585), Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739, E-mail: ccooper@cfsan.fda.gov

Alternate Delegate: Ms. Kathleen Warner (Acting), U.S. Department of Agriculture, 1815 N. University Street, Peoria, IL 61604, Phone #: (309) 681–6584, Fax #: (301) 681–6668, E-mail: warnerk@mail.ncaur.usda.gov

Codex Committee on Cocoa Products and Chocolate, (Host Government—Switzerland)

U.S. Delegate: Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739, E-mail: ccooper@cfsan.fda.gov

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Codex Committee on Sugars (Host Government—United Kingdom)

Delegate: Dr. Thomas L. Tew, Research Geneticist, Sugarcane Research Unit, Agricultural Research Service, USDA, 5883 USDA Road, Houma, LA 70360, Phone #: (504) 872–5042, Fax #: (504) 868–8369, E-mail: ttew@srrc.ars.usda.gov

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Codex Committee on Processed Fruits and Vegetables (Host Government—United States)

Delegate: Mr. James Rodeheaver, Chief, Processed Products Branch, Fruit & Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Agriculture Building, Washington, DC 20250, Phone: (202) 720–4693, Fax: (202) 690–1527, E-mail: james.rodeheaver@usda.gov

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Codex Committee on Soups and Broths (Host Government—Switzerland)

Delegate: Mr. Charles Edwards, Director, Technology Program Development Staff, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 405, 300 12th Street, SW, Washington, DC 20250, Phone #: (202) 205–0675, Fax #: (202) 205–0080, E-mail: charles.edwards@usda.gov

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Codex Committee on Vegetable Proteins (Host Government—Canada)

U.S. Delegate: Dr. Wilda H. Martinez, Area Director, ARS North Atlantic Area Sciences, Agricultural Research Service, USDA, 600 E. Mermaid Lane, Wynwood, PA 19038, Phone #: (215) 233–6593, Fax #: (215) 233–6719, E-mail: wmartinez@ars.usda.gov

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Codex Committee on Meat Hygiene (Host Government—New Zealand)

Delegate: Dr. John Prucha, Assistant Deputy Administrator, Program Coordination and Evaluation, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 4866, South Agriculture Building, Washington, DC 20250, Phone #: (202) 720–3473, Fax #: (202) 690–3856, E-mail: john.prucha@usda.gov

Alternate Delegate: Dr. Bonnie Buntain, Acting Assistant Deputy Administrator, Office of Public Health and Safety, Food Safety and Inspection Service, U.S. Department of Agriculture, Mail drop 343 Aerospace Building, 3rd Floor, Room 333, 1400 Independence Avenue, SW, Washington, DC 20250, Phone: (202) 690–6556, Fax: (202) 690–6557, E-mail: bonnie.buntain@usda.gov

Codex Committee on Natural Mineral Waters (Host Government—Switzerland)

Delegate: Dr. Terry C. Troxell, Director, Office of Plant and Dairy Foods and Beverages (HFS–300), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5321, Fax #: (202) 205–4422, E-mail: TCT@cfsan.fda.gov

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Ad Hoc Intergovernmental Task Forces

AD HOC Intergovernmental Task Force on Fruit and Vegetable Juices (Host government—Brazil)

Delegate: Mr. Martin Stutsman, Office of Plant and Dairy Foods and Beverages (HFS–306), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW, Washington, DC 20204, Phone: (202) 260–1949, Fax: (202) 205–4422, E-mail: mstutsma@cfsan.fda.gov

Alternate Delegate: Mr. David Priester, Head, Standardization Section, International Standards Coordinator,

Fruit & Vegetable Programs, Agricultural Marketing Service, Room 2069, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250, Phone #: (202) 720–2184, Fax #: (202) 720–0016, E-mail: david.priester@usda.gov

AD HOC Intergovernmental Task Force on Foods, Derived From Biotechnology (Host government—Japan)

Delegate: L. Robert Lake, Director, Office of Regulations and Policy, Center for Food Safety and Applied Nutrition (HFS–4), Food and Drug Administration, 200 C St. SW, Washington, DC 20204, Phone: (202) 205–4160, Fax: (202) 401–7739, E-mail: LRL@cfsan.fda.gov

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AD HOC Intergovernmental Task Group On Animal Feeding (Host government—Denmark)

Delegate: Dr. Stephen F. Sundlof, Director, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place (HFV–1), Metro Park N. 4, Rockville, MD 20855, Phone: (301) 827–2950, Fax: (301) 827–4401, E-mail: ssundlof@cvm.fda.gov

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Subsidiary Bodies of The Codex Alimentarius

There are six regional coordinating committees:

Coordinating Committee for Africa
Coordinating Committee for Asia
Coordinating Committee for Europe
Coordinating Committee for Latin America and the Caribbean
Coordinating Committee for the Near East
Coordinating Committee for North America and the South-West Pacific

Contact: Mr. Patrick Clerkin, Associate Manager, U.S. Codex Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250, Phone #: (202) 205–7760, Fax #: (202) 720–3157, E-mail: patrick.clerkin@usda.gov

Attachment 3

Timetable of Codex Sessions (June 2000 through June 2002)

2000:			
CX 722–24	Codex Committee on Fish and Fishery Products (24th Session)	5–9 June	Alesund
CX 803–01	*ad hoc* Intergovernmental Codex Task Force on Animal Feeding	13–15 June	Copenhagen
CX 720–22	Codex Committee on Nutrition and Foods for Special Dietary Uses (22nd Session)	19–23 June	Berlin
CX 702–47	Executive Committee of the Codex Alimentarius Commission (47th Session)	28–30 June	Geneva
CX 713–20	Codex Committee on Processed Fruits and Vegetables (20th Session)	11–15 September	Washington, DC
CX 801–01	*ad hoc* Intergovernmental Codex Task Force on Fruit Juices (1st Session)	18–22 September	Brasilia
CX 706–22	Codex Regional Coordinating Committee for Europe	3–6 October	Madrid
CX 731–09	Codex Committee on Fresh Fruits and Vegetables (9th Session)	9–13 October	Mexico City
CX 712–33	Codex Committee on Food Hygiene (33rd Session)	23–27 October	Washington, DC
CX 719–07	Codex Committee on Natural Mineral Waters (7th Session)	30 October–1 November	Fribourg
CX 708–18	Codex Committee on Cocoa Products and Chocolate (18th Session)	2–4 November	Fribourg
CX 707–14	Codex Regional Coordinating Committee for Africa (14th Session)	27–30 November	Entebbe
CX 732–06	Codex Regional Coordinating Committee for North America and the South-West Pacific (6th Session)	5–8 December	Perth
2001:			
CX 734–01	Codex Regional Coordinating Committee for the Near East	29 January–1 February	Cairo
CX 725–12	Codex Regional Committee for Latin America and the Caribbean (12th Session)	13–16 February	Santo Domingo
CX 709–17	Codex Committee of Fats and Oils (17th Session)	19–23 February	London
CX 715–23	Codex Committee on Methods of Analysis and Sampling (23rd Session)	26 February–2 March	Budapest
CX 711–33	Codex Committee on Food Additives and Contaminants (33rd Session)	12–16 March	The Hague
CX 803–02	*ad hoc* Intergovernmental Task Force on Animal Feeding	19–21 March	Copenhagen
CX 718–33	Codex Committee on Pesticide Residues (33rd Session)	2–7 April	The Hague
CX 716–16	Codex Committee on General Principles (16th Session)	23–27 April	Paris
CX 714–29	Codex Committee on Food Labelling (29th Session)	30 April–4 May	Ottawa
CX 702–48	Executive Committee of the Codex Alimentarius Commission (48th Session)	28–29 June	Geneva
CX 701–24	Codex Alimentarius Committee (24th Session)	2–7 July	Geneva
CX 708–19	Codex Committee on Cocoa Products and Chocolate (19th Session)	3–5 October	Fribourg
CX 712–23	Codex Committee on Food Hygiene (34th Session)	8–13 October	Bangkok

CX 720–23	Codex Committee for Nutrition and Foods for Special Dietary uses (23rd Session)	26–30 November	Berlin
CX 730–13	Codex Committee on Residues of Veterinary Drugs in Foods (13th Session)	4–7 December	Charleston, SC
2002:			
CX 731–10	Codex Committee on Fresh Fruits and Vegetables (10th Session)	28 January–1 February	Mexico City
CX 723–8	Codex Committee on Meat Hygiene (8th Session)	18–22 February	Wellington
CX 733–10	Codex Committee on Food Import and Export Certification and Inspection Systems (10th Session)	25 February–1 March	Canberra
CX 802–03	*ad hoc* Intergovernmental Task Force on Biotechnology (3rd Session)	4–8 March	Kyoto
CX 711–34	Codex Committee on Food Additives and Contaminants (34th Session)	11–15 March	The Hague
CX 803–03	*ad hoc* Intergovernmental Task Force on Animal Feeding (3rd Session)	18–20 March	Copenhagen
CX 703–05	Codex Committee on Milk and Milk Products (5th Session)	8–12 April	Wellington
CX 716–17	Codex Committee on General Principles (17th Session)	15–19 April	Paris
CX 801–02	*ad hoc* Intergovernmental Task Force on Fruit Juice (2nd Session)	23–26 April	Brasilia
CX 714–30	Codex Committee on Food Labelling (30th Session)	6–10 May	Ottawa
CX 718–34	Codex Committee on Pesticide Residues (34th Session)	13–18 May	The Hague
CX 722–25	Codex Committee on Fish and Fishery Products (25th Session)	3–7 June	Bergen
CX 702–49	Executive Committee of the Codex Alimentarius Commission (49th Session)	26–28 June	Rome

Attachment 4

Definitions for the Purpose of Codex Alimentarius

Words and phrases have specific meanings when used by the Codex Alimentarius. For the purposes of Codex, the following definitions apply:

1. *Food* means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum, and any substance which has been used in the manufacture, preparation or treatment of ''food'' but does not include cosmetics or tobacco or substances used only as drugs.

2. *Food hygiene* comprises conditions and measures necessary for the production, processing, storage and distribution of food designed to ensure a safe, sound, wholesome product fit for human consumption.

3. *Food additive* means any substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include ''contaminants'' or substances added to food for maintaining or improving nutritional qualities.

4. *Contaminant* means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry, and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination. The term does not include insect fragments, rodent hairs and other extraneous matters.

5. *Pesticide* means any substance intended for preventing, destroying, attracting, repelling, or controlling any pest including unwanted species of plants or animals during the production, storage, transport, distribution and processing of food, agricultural commodities, or animal feeds or which may be administered to animals for the control of ectoparasites. The term includes substances intended for use as a plant-growth regulator, defoliant, desiccant, fruit thinning agent, or sprouting inhibitor and substances applied to crops either before of after harvest to protect the commodity from deterioration during storage and transport. The term pesticides excludes fertilizers, plant and animal nutrients, food additives, and animal drugs.

6. *Pesticide residue* means any specified substance in food, agricultural commodities, or animal feed resulting from the use of a pesticide. The term includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products, and impurities considered to be of toxological significance.

7. *Good Agricultural Practice in the Use of Pesticides (GAP)* includes the nationally authorized safe uses of pesticides under actual conditions necessary for effective and reliable pest control. It encompasses a range of levels of pesticide applications up to the highest authorized use, applied in a manner that leaves a residue which is the smallest amount practicable.

Authorized safe uses are determined at the national level and include nationally registered or recommended uses, which take into account public and occupational health and environmental safety considerations.

Actual conditions include any stage in the production, storage, transport, distribution and processing of food commodities and animal feed.

8. *Codex Maximum Limit for Pesticide Residues (MRLP)* is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. MRLPs are based on their toxological affects and on GAP data and foods derived from commodities that comply with the respective MRLPs are intended to be toxologically acceptable.

Codex MRLPs, which are primarily intended to apply in international trade, are derived from reviews conducted by the JMPR following:

(a) Toxological assessment of the pesticide and its residue, and

(b) Review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices. Data from supervised trials conducted at the

highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices.

Consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI, should indicate that foods complying with Codex MRLPs are safe for human consumption.

9. *Veterinary Drug* means any substance applied or administered to any food-producing animal, such as meat or milk-producing animals, poultry, fish or bees, whether used for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

10. *Residues of Veterinary Drugs* include the parent compounds and/or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned.

11. *Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD)* is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or (g/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on food.

An MRLVD is based on the type and amount of residue considered to be without any toxological hazard for human health as expressed by the Acceptable Daily Intake (ADI), or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical and analytical methods are available.

12. *Good Practice in the Use of Veterinary Drugs* (GPVD) is the official recommended or authorized usage including withdrawal periods approved by national authorities, of veterinary drugs under practicable conditions.

13. *Processing Aid* means any substance or material, not including apparatus or utensils, not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients, to fulfill a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

Definitions of Risk Analysis Terms Related to Food Safety

Hazard: A biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect.

Risk: A function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard(s) in food.

Risk analysis: A process consisting of three components: risk assessment, risk management and risk communication.

Risk assessment: A scientifically based process consisting of the following steps: (i) Hazard identification, (ii) hazard characterization, (iii) exposure assessment, and (iv) risk characterization.

Hazard identification: The identification of biological, chemical, and physical agents capable of causing adverse health effects and which may be present in a particular food or group of foods.

Hazard characterization: The qualitative and/or quantitative evaluation of the nature of the adverse health effects associated with biological, chemical and physical agents that may be present in food. For chemical agents, a dose-response assessment should be performed. For biological or physical agents, a dose-response assessment should be performed if the data are obtainable.

Dose-response assessment: The determination of the relationship between the magnitude of exposure (dose) to a chemical, biological or physical agent and the severity and/or frequency of associated adverse health effects (response).

Exposure assessment: The qualitative and/or quantitative evaluation of the likely intake of biological, chemical, and physical agents via food as well as exposures from other sources if relevant.

Risk characterization: The qualitative and/or quantitative estimation, including attendant uncertainties, of the probability of occurrence and severity of known or potential adverse health effects in a given population based on hazard identification, hazard characterization and exposure assessment.

Risk management: The process, distinct from risk assessment, of weighing policy alternatives, in consultation with all interested parties, considering risk assessment and other factors relevant for the health protection of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options.

Risk communication: The interactive exchange of information and opinions throughout the risk analysis process concerning risk, related risk factors and risk perceptions, among risk assessors, risk managers, consumers, industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions.

Attachment 5

Part 1

Uniform Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission decides, taking into account the ''Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies,'' to elaborate a Worldwide Codex Standard and also decides which subsidiary body or other body should undertake the work. A decision to elaborate a Worldwide Codex Standard may also be taken by subsidiary bodies of the Commission in accordance with the above-mentioned criteria, subject to subsequent approval by the Commission or its Executive Committee at the earliest possible opportunity. In the case of Codex Regional Standards, the Commission shall base its decision on the proposal of the majority of members belonging to a given region or group of countries submitted at a session of the Codex Alimentarius Commission.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to members of the Commission and interested international organizations for comment on all aspects including

possible implications of the proposed draft standard for their economic interests.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

The proposed draft standard is submitted through the Secretariat to the Commission or to the Executive Committee with a view to its adoption as a draft standard. When making any decision at this step, the Commission or the Executive Committee will give due consideration to any comments that may be submitted by any of its members regarding the implications which the proposed draft standard or any provisions of the standard may have for their economic interests. In the case of Regional Standards, all members of the Commission may present their comments, take part in the debate and propose amendments, but only the majority of the Members of the region or group of countries concerned attending the session can decide to amend or adopt the draft. When making any decisions at this step, the members of the region or group of countries concerned will give due consideration to any comments that may be submitted by any of the members of the Commission regarding the implications which the proposed draft standard or any provisions of the proposed draft standard may have for their economic interests.

Step 6

The draft standard is sent by the Secretariat to all members and interested international organizations for comment on all aspects, including possible implications of the draft standard for their economic interests.

Step 7

The comments received are sent by the Secretariat to the subsidiary body or other body concerned, which has the power to consider such comments and amend the draft standard.

Step 8

The draft standard is submitted through the Secretariat to the Commission together with any written proposals received from members and interested international organizations for amendments at Step 8 with a view to its adoption as a Codex Standard. In the case of Regional standards, all members and interested international organizations may present their comments, take part in the debate and propose amendments but only the majority of members of the region or group of countries concerned attending the session can decide to amend and adopt the draft.

Part 2

Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission or the Executive Committee between Commission sessions, on the basis of a two-thirds majority of votes cast, taking into account the ''Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies'', shall identify those standards which shall be the subject of an accelerated elaboration process. The identification of such standards may also be made by subsidiary bodies of the Commission, on the basis of a two-thirds majority of votes cast, subject to confirmation at the earliest opportunity by the Commission or its Executive Committee by a two-thirds majority of votes cast.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to Members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests. When standards are subject to an accelerated procedure, this fact shall be notified to the Members of the Commission and the interested international organizations.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

In the case of standards identified as being subject to an accelerated elaboration procedure, the draft standard is submitted through the Secretariat to the Commission together with any written proposals received from Members and interested international organizations for amendments with a view to its adoption as a Codex standard. In taking any decision at this step, the Commission will give due consideration to any comments that may be submitted by any of its Members regarding the implications which the proposed draft standard or any provisions thereof may have for their economic interests.

Attachment 6

Nature of Codex Standards

Codex standards contain requirements for food aimed at ensuring for the consumer a sound, wholesome food product free from adulteration, and correctly labelled. A Codex standard for any food or foods should be drawn up in accordance with the Format for Codex Commodity Standards and contain, as appropriate, the criteria listed therein.

Format for Codex Commodity Standards Including Standards Elaborated Under the Code of Principles Concerning Milk and Milk Products

Introduction

The format is also intended for use as a guide by the subsidiary bodies of the Codex Alimentarius Commission in presenting their standards, with the object of achieving, as far as possible, a uniform presentation of commodity standards. The format also indicates the statements which should be included in standards as appropriate under the relevant headings of the standard. The sections of the format required to be completed for a standard are only those provisions that are appropriate to an international standard for the food in question.

Name of the Standard, Scope, Description, Essential Composition and Quality Factors, Food Additives, Contaminants, Hygiene, Weights and Measures Labelling, Methods of Analysis and Sampling

Format for Codex Standards

Name of the Standard

The name of the standard should be clear and as concise as possible. It should usually be the common name by which the food covered by the standard is known or, if more than one food is

dealt with in the standard, by a generic name covering them all. If a fully informative title is inordinately long, a subtitle could be added.

Scope

This section should contain a clear, concise statement as to the food or foods to which the standard is applicable unless the name of the standard clearly and concisely identifies the food or foods. A generic standard covering more than one specific product should clearly identify the specific products to which the standard applies.

Description

This section should contain a definition of the product or products with an indication, where appropriate, of the raw materials from which the product or products are derived and any necessary references to processes of manufacture. The description may also include references to types and styles of product and to type of pack. The description may also include additional definitions when these additional definition are required to clarify the meaning of the standard.

Essential Composition and Quality Factors

This section should contain all quantitative and other requirements as to composition including, where necessary, identity characteristics, provisions on packing media and requirements as to compulsory and optional ingredients. It should also include quality factors that are essential for the designation, definition, or composition of the product concerned. Such factors could include the quality of the raw material, with the object of protecting the health of the consumer, provisions on taste, odor, color, and texture which may be apprehended by the senses, and basic quality criteria for the finished products, with the object of preventing fraud. This section may refer to tolerances for defects, such as blemishes or imperfect material, but this information should be contained in appendix to the standard or in another advisory text.

Food Additives

This section should contain the names of the additives permitted and, where appropriate, the maximum amount permitted in the food. It should be prepared in accordance with guidance given on page 93 of the Codex Procedural Manual and may take the following form:

''The following provisions in respect of food additives and their specifications as contained in section. . . . . .of the Codex Alimentarius are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants.''

A tabulation should then follow, viz.: ''*Name of additive, maximum level* (in percentage or mg/kg).''

Contaminants

(a) *Pesticide Residues:* This section should include, by reference, any levels for pesticide residues that have been established by the Codex Committee on Pesticide Residues for the product concerned.

(b) *Other Contaminants:* In addition, this section should contain the names of other contaminants and where appropriate the maximum level permitted in the food, and the text to appear in the standard may take the following form:

''The following provisions in respect of contaminants, other than pesticide residues, are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants.''

A tabulation should then follow, viz.: ''*Name of contaminant, maximum level* (in percentage or mg/kg).''

Hygiene

Any specific mandatory hygiene provisions considered necessary should be included in this section. They should be prepared in accordance with the guidance given on page 95 of the Codex Procedural Manual. Reference should also be made to applicable codes of hygienic practice. Any parts of such codes, including in particular any end-product specifications, should be set out in the standard, if it is considered necessary that they should be made mandatory. The following statement should also appear:

''The following provisions in respect of the food hygiene of the product are subject to endorsement [have been endorsed] by the Codex Committee on Food Hygiene.''

Weights and Measures

This section should include all provisions, other than labelling provisions, relating to weights and measures, e.g. where appropriate, fill of container, weight, measure or count of units determined by an appropriate method of sampling and analysis. Weights and measures should be expressed in S.I. units. In the case of standards which include provisions for the sale of products in standardized amounts, e.g. multiples of 100 grams, S.I. units should be used, but this would not preclude additional statements in the standards of these standardized amounts in approximately similar amounts in other systems of weights and measures.

Labelling

This section should include all the labelling provisions contained in the standard and should be prepared in accordance with the guidance given on page 92 of the Codex Procedural Manual. Provisions should be included by reference to the General Standard for the Labelling of Prepackaged Foods. The section may also contain provisions which are exemptions from, additions to, or which are necessary for the interpretation of the General Standard in respect of the product concerned provided that these can be justified fully. The following statement should also appear:

''The following provisions in respect of the labelling of this product are subject to endorsement [have been endorsed] by the Codex Committee on Food Labelling.''

Methods of Analysis and Sampling

This section should include, either specifically or by reference, all methods of analysis and sampling considered necessary and should be prepared in accordance with the guidance given on page 95 of the Codex Procedural Manual. If two or more methods have been proved to be equivalent by the Codex Committee on Methods of Analysis and Sampling, these could be regarded as alternative and included in this section either specifically or by reference. The following statement should also appear:

''The methods of analysis and sampling described hereunder are to be endorsed [have been endorsed] by the Codex Committee on Methods of Analysis and Sampling.''

[FR Doc. 01–12938 Filed 5–30–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lime Kiln Timber Sale, Beaverhead-Deerlodge National Forest, Silver Bow County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement to document the analysis and disclose the environmental impacts of proposed actions to manage vegetation

through timber harvest and prescribed burning in the Roosevelt Drive and Lime Kiln areas of the Highland Mountains. The project area is located approximately 10 miles south of Butte, MT.

The Forest Service proposes to selectively treat approximately 366 acres of sawtimber and post and poles, predominantly mature Douglas-fir and lodgepole pine. Approximately .5 mile of temporary road construction is proposed to access the harvest units. Additionally, .6 mile of existing dead-end spur roads would be closed within 5 years of the vegetative treatments.

DATES: Comments concerning the scope of the analysis should be received in writing by July 5, 2001.

ADDRESSES: Send written comments to Bruce Schuelke, Butte Ranger District, 1820 Meadowlark, Butte, MT 59701.

FOR FURTHER INFORMATION CONTACT: Bruce Schuelke, Interdisciplinary Team Leader, (406) 494–0241.

SUPPLEMENTARY INFORMATION: The primary purpose of this proposal is to maintain a healthy Lodgepole Pine and Douglas-Fir overstory. The desired condition would be more resistant to catastrophic fires; to promote vegetation components that evolved ecological with disturbance; and to reduce the risk of insect infestations. The proposal would encourage aspen re-establishment through harvesting and underburning; and is designed to reduce the overall sedimentation in Backtail Creek. The proposal would harvest timber in two areas using commercial thinning, clearcutting and sanitation salvage. Approximately 3,000 CCF of sawtimber and approximately 36,000 posts and poles would be harvested.

The project tiers to the National Fire Plan by reducing hazardous fuels along the wildland-urban interface. This project levels EIS will tier to the Deerlodge National Forest Land and Resource Management Plan (Forest Plan) and incorporate by reference the Forest Plan (September 1987), which provides overall guidance of all land management activities on the Beaverhead-Deerlodge National Forest, including timber. This project was previously analyzed as Lime Kiln Timber Sale E.A.

Public participation is important to the analysis. Part of the goal of public involvement is to identify additional issues and to refine the general tentative issues. To date, over 200 letters were sent to interested people, adjacent landowners, organizations, business, as well as Federal, State, County, and Tribal organizations. Two field trips were held in the summers of 1996 and 1997. Comments from the public and other agencies are being used to prepare the Draft EIS. The scoping process to date has identified potential issues; identified major issues to be analyzed in depth, and eliminated minor issues or those that have been covered by a relevant previous environmental analysis. Public comments received during initial scooping identified the following issues: effects to wildlife habitats, visual quality, recreation, economic impacts, and adjacent private land. Potential alternatives may harvest less timber, or emphasize harvest in other areas.

During the scoping process, the Forest Service is seeking additional information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. The United States Fish and Wildlife Service will be consulted concerning effects to threatened and endangered species. The agency invites written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

The Beaverhead-Deerlodge National Forest is the lead agency for this proposal. The Forest Supervisor for the Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, MT 59725 will be making the decision on this action. The draft should be available for review in September 2001 and the final EIS is scheduled for completion in November 2001.

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 it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *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 this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement 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 draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council of 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 23, 2001.

Janette S. Kaiser,

Forest Supervisor.

[FR Doc. 01–13615 Filed 5–30–01; 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: 2002 Economic Census covering the Utilities; Transportation and Warehousing; Finance and Insurance; and Real Estate, Rental and Leasing Sectors.

Form Number(s): The 36 report forms are too numerous to list here.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 829,579 hours in FY 2003.

Number of Respondents: 633,007.

Avg Hours Per Response: 1.3 hours.

Needs and Uses: The 2002 Economic Census covering the Utilities; Transportation and Warehousing; Finance and Insurance; and Real Estate, Rental and Leasing Sectors will use a mail canvas, supplemented by data from Federal administrative records, to measure the economic activity of more than 994,000 establishments in these sectors of the economy as classified in the North American Industry Classification System (NAICS).

The Utilities sector comprises establishments primarily engaged in the provision of utility services through a permanent infrastructure. The Transportation sector comprises establishments primarily engaged in transporting people and goods. The Warehousing sector comprises establishments primarily engaged in warehousing and storage for goods. The Finance and Insurance sector comprises two types of establishments: those engaged in financial transactions, that is, transactions involving the creation, liquidation, or change in ownership of financial assets, or in facilitating financial transactions; and those engaged in the intermediating as the consequence of pooling risks and facilitating such intermediation. The Real Estate subsector comprises establishments primarily engaged in leasing real estate to others, as well as real estate managers, agents, and brokers. The Rental and Leasing subsector comprises establishments primarily engaged in acquiring, owning, and making available a wide variety of tangible goods such as machinery, equipment, computers, and consumer goods to businesses or individuals, in return for a periodic rental or lease payment.

The economic census will produce basic statistics by kind of business for number of establishments, revenue, payroll, and employment. It also will yield a variety of subject statistics, including sources of revenue, and other industry-specific measures, such as insurance benefits paid to policyholders, exported services, purchased transportation, and exported energy. Basic statistics will be summarized for the United States, states, metropolitan areas and, in some cases, for counties and places having 2,500 inhabitants or more. Tabulations of subject statistics also will present data for the United States and, in some cases, for states.

Affected Public: Businesses or other for-profit organizations, individuals or households, not-for-profit institutions, State, local or Tribal governments.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131 and 224.

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 25, 2001.

Madeleine Clayton,

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

[FR Doc. 01–13622 Filed 5–30–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[052401A]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce 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: National Oceanic and Atmospheric Administration (NOAA).

Title: North Carolina and Louisiana Commercial King and/or Spanish Mackerel Fishermen Pilot Economic Study.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: Regular submission.

Burden Hours: 154.

Number of Respondents: 140.

Average Hours Per Response: 12 minutes per screening form, 5 minutes for a captain form when completed by an owner, 20 minutes for an owner form, 15 minutes for a captain form when the captain is not an owner, and 15 minutes for a trip questionnaire.

Needs and Uses: The North Carolina and Louisiana Commercial King and/or Spanish Mackerel Fishermen Pilot Economic Survey will consist of telephone screening followed by in-person interviews of commercial fishermen in North Carolina and Louisiana possessing Federal commercial mackerel fishing permits. The survey will provide NMFS with economic information to better estimate the effects of regulations proposed for the king and Spanish mackerel commercial fisheries. The survey will also provide a better basis for designing statistically-random surveys for other strata of the population of boats that engage in these and other fisheries throughout the southeast (coastal states of North Carolina to Texas). Monitoring of these fisheries is required under the Magnuson-Stevens Fishery Conservation and Management Act.

Affected Public: Business or other for-profit organizations.

Frequency: One-time, three times a year.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

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 David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 22, 2001

Madeleine Clayton,

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

[FR Doc. 01–13680 Filed 5–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 47–99]

Foreign-Trade Zone 207—Richmond International Airport, Virginia, Withdrawal of Application for Subzone Status for Alfa Laval Thermal, Inc., Heat Exchangers and Parts Manufacturing Facilities in Richmond, Virginia Area

Notice is hereby given of the withdrawal of the application submitted by the Capital Region Airport Commission, grantee of FTZ 207, requesting special-purpose subzone status for the manufacturing facilities (heat exchangers and parts) of Alfa Laval Thermal, Inc., located at sites in the Richmond, Virginia, area. The application was filed on October 14, 1999 (64 FR 57627, 10/26/99).

The withdrawal was requested because of changed circumstances, and the case has been closed without prejudice.

Dated: May 18, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–13682 Filed 5–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[052501A]

Billfish Certificate of Eligibility

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 30, 2001.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Christopher Rogers, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 (phone 301-713-2347).

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), NOAA is responsible for management of the Nation's marine fisheries. In addition, NOAA must comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.). A Certificate of Eligibility for Billfishes is required under 50 CFR part 635 to accompany all billfish offered for sale except for a billfish landed in a Pacific state and remaining in the state of landing. This documentation certifies that the accompanying billfish was not harvested from the Atlantic Ocean management unit (described on the form). The certificate must accompany the billfish to any dealer or processor who subsequently receives or possesses the billfish. This collection is necessary to implement the Atlantic Billfish Fishery Management Plan, whose objective is to reserve Atlantic billfish for the recreational fishery.

II. Method of Collection

A paper form and recordkeeping is used.

III. Data

OMB Number: 0648-0216.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 10 for completion of certificate and 2250 for recordkeeping.

Estimated Time Per Response: 20 minutes for completion of the certificate, 2 minutes per subsequent recordkeepers.

Estimated Total Annual Burden Hours: 117.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 23, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–13679 Filed 5–30–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Short Supply Request under the African Growth and Opportunity Act (AGOA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA)

May 25, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Request for public comments concerning a request for a determination that rayon filament yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner.

FOR FURTHER INFORMATION CONTACT: Lori Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUMMARY: On May 23, 2001 the Chairman of CITA received a petition from ICF Industries, Inc. alleging that rayon filament yarn, classified in subheading 5403.31 and 5403.32 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim that apparel articles of U.S. formed-fabric of such yarn be eligible for preferential treatment under the AGOA and CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether rayon filament yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by June 15, 2001 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA; Section 213(b)(2)(A)(v)(II) of the CBTPA, as added by Section 211(a) of the CBTPA; Sections 1 and 6 of Executive Order No. 13191 of January 17, 2001.

Background

The AGOA and the CBTPA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The AGOA and the CBTPA also provide for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and

sewn or otherwise assembled in one or more AGOA or CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President has proclaimed such treatment. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. 66 FR 13502.

On May 23, 2001 the Chairman of CITA received a petition from ICF Industries, Inc. alleging that rayon filament yarn, classified in HTSUS subheading 5403.31 and 5403.32 cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim quota- and duty-free treatment under the AGOA and CBTPA for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more AGOA or CBTPA beneficiary countries from U.S. formed fabric of such yarn.

CITA is soliciting public comments regarding this request, particularly with respect to whether these yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other products that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the yarn for purposes of the intended use. Comments must be received no later than June 15, 2001. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that rayon filament yarn can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is in the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure for the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–13663 Filed 5–25–01; 2:30 pm]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Short Supply Request under the United States—Caribbean Basin Trade Partnership Act (CBTPA)

May 24, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Denial of the petition alleging 100 percent polyester yarn of 150 denier/140 filament textured polyester containing one end of 75/70 cationic dyeable polyester intermingled with one end of 75/70 disperse dyeable polyester, for use in knit fabric, cannot be supplied by the domestic industry in commercial quantities in a timely manner.

FOR FURTHER INFORMATION CONTACT: Lori Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUMMARY: On March 26, 2001 the Chairman of CITA received a petition from Val D'or and Malden Mills alleging that 100 percent polyester yarn of 150 denier/140 filament textured polyester containing one end of 75/70 cationic dyeable polyester intermingled with one end of 75/70 disperse dyeable polyester, for use in knit fabric, classified in subheading 5402.33.60 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that the President proclaim that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA. Based on currently available information, CITA has determined that U.S. producers have the ability to supply this product in commercial quantities in a timely manner and therefore denies the petition.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

Background

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a CBTPA beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President has proclaimed such treatment. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On March 26, 2001 the Chairman of CITA received a petition from Val D'or and Malden Mills alleging that 100 percent polyester yarn of 150 denier/140 filament textured polyester containing one end of 75/70 cationic dyeable polyester intermingled with one end of 75/70 disperse dyeable polyester, for use in knit fabric, classified in subheading 5402.33.60 of the HTSUS, cannot be supplied by the domestic industry in commercial quantities in a timely manner. They requested that the President proclaim that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA. CITA solicited public comments regarding this request (66 FR 17534, published on April 2, 2001) particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner.

Based on its review of the petition and the information received, CITA has determined that the petition has not established that this yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. CITA finds that there is substantial U.S. capacity to produce this yarn, and the petition does not demonstrate the contrary. CITA concludes in the context of this petition that U.S. producers have the ability to supply this yarn in commercial quantities in a timely manner. Val D'or and Malden Mills' request is denied.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–13664 Filed 5–25–01; 2:30 pm]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Closed Meeting

AGENCY: Defense Intelligence Agency, Defense.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Joint Military Intelligence College Board of Visitors has been scheduled as follows:

DATES: Monday, 11 June 2001, 0800 to 1700; and Tuesday, 12 June 2001, 0800 to 1200.

ADDRESSES: Joint Military Intelligence College, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Mr. A. Denis Clift, President, DIA Joint Military Intelligence College, Washington, DC 20340–5100 (202/231–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed. The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Joint Military Intelligence College.

Dated: May 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01–13568 Filed 5–30–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing

ACTION: Notice.

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:00 a.m. to 5:00 p.m. on June 14, 2001, and from 8:00 a.m. to 5:00 p.m. on June 15, 2001. The meeting will be held at the Fulton Lane Inn, Charleston, South Carolina. The purpose of the meeting is to review planned changes and progress in developing computerized and paper-and-pencil enlistment tests and renorming of the tests. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Assistant Secretary of Defense (Force Management Policy), Room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271, no later than May 31, 2001.

Dated: May 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13571 Filed 5–30–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Intelligence Needs for Homeland Defense Chemical Panel will meet in closed session on June 5–6, 2001, in Las Vegas, Nevada. This Task Force will consider a broad spectrum of intelligence issues as they relate to chemical warfare issues, from early threat detection to deterrence, through response including attribution.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will review and evaluate the Department's ability to evaluate the collection and analysis of target-related information and weapon unique information relative to chemical warfare issues; examine the role of HUMINT against these missions as well as the technology that the HUMINT collectors need to be equipped with; consider strategic indications and warning and tactical warning dissemination and how the two need to be merged; analyze methodology to correlate large data flows spatially, temporally and functionally; and assess the robustness of today's intelligence apparatus for coping with these challenges.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, this meeting will be closed to the public.

Dated: May 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13570 Filed 5–30–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: Notice.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Date of Meeting: June 13, 2001 from 0830 to 1710.

Place: National Rural Electric Cooperative Association (NRECA), 4301 Wilson Boulevard, Conference Center Room 1, Arlington, VA 22203.

Matters to be Considered: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Veronica Rice, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2119.

Dated: May 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–13569 Filed 5–30–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), an announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board, Objective Force Soldier, Leadership Meeting.

Date of Meeting: June 5 and 6, 2001.

Place: SAIC, McLean, VA., 8 a.m.–5 p.m.

Summary: The Army Science Board's (ASB) Summer Study Leadership on the ''Objective Force Soldier/Soldier Systems'' will meet for the purpose of ''pre-decisions'' and FY2001 SS general discussion. As this session is for the purposes of laying the framework for the two-week report writing session and outbrief to Army leadership and because the proprietary matters to be discussed are so inextricably intertwined, this precludes opening any portion of these meetings to the public.

Contact Person: For further information, please contact Everett R. Gooch at (703) 604–7479.

Wayne Joyner,

Executive Assistant, Army Science Board.

Agenda

June 5–6, 2001

8 a.m.–5 p.m. (both days) Group discussion and leadership decision.

[FR Doc. 01–13649 Filed 5–30–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), an announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board.

Date of Meeting: July 16 through 26, 2001.

Place: Arnold and Mabel Beckmen Center of the National Academies of Sciences and Engineering, Irvine, California.

Summary: The Army Science Board's (ASB) Summer Study Panels on the ''Objective Force Soldier/Soldier Systems'' will meet for the purpose discussions, report writing, and finalizing briefings for their respective sponsors. As this session is for the purpose of coming together and compiling gathered information related to the FY2001 Summer Study with the ultimate goal of outbriefing the Army Leadership and because the proprietary matters to be discussed are so inextricably intertwined, this precludes opening any portion of these meetings to the public. For further information, please contact Everett R. Gooch at (703) 604–7479.

Wayne Joyner,

Executive Assistant, Army Science Board.

FY 01 SS Report Writing Session Agenda

Monday 16 July

8–8:30 a.m.—General Orientation.

8–8:30 a.m.—Report Writing Session (Proprietary).

Tuesday 17 July

8 a.m.–5 p.m.—Report Writing Session. (Proprietary)

Wednesday 18 July

8 a.m.–5 p.m.—Report Writing Session. (Proprietary)

Thursday 19 July

8 a.m.–5 p.m.—Report Writing Session. (Proprietary)

Friday 20 July

8 a.m.–5 p.m.—Report Writing Session. (Proprietary)

Saturday 21 July and Sunday 22 July

Report Writing Session as needed. (Proprietary)

Monday 23 July

8 a.m.–5 p.m.—Report Writing Session. (Proprietary)

Tuesday 24 July

8 a.m.–5 p.m.—Report Writing Session. (Proprietary)

Wednesday 25 July

8 a.m.–5 p.m.—Report Writing Session. (Proprietary)

Thursday 26 July

8 a.m.–5 p.m.—Report Writing Session. (Proprietary)

8 a.m.–5 p.m.—Briefout to the CSA, Sponsors and invited guest. (Proprietary)

[FR Doc. 01–13650 Filed 5–30–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to amend systems of records.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 2, 2001 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Defense Logistics Agency proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: May 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base (July 13, 2000, 65 FR 43302).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry 'date of award of certification of military experience and training'.

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

PRIMARY LOCATION:

Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

BACK-UP LOCATION:

Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army, Navy, Air Force and Marine Corps officer and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired Army, Navy, Air Force, and Marine Corps officer and enlisted personnel; active and retired Coast Guard personnel; active and retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

Current and former DoD civilian employees since January 1, 1972. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey.

Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors; survivors of retired Coast Guard personnel; and survivors of retired officers of the National Oceanic and Atmospheric Administration who are eligible for or are currently receiving Federal payments due to the death of the retiree.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

All Federal Civil Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; performance ratings of DoD civilian employees and military members; reasons given for leaving military service or DoD civilian service; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, assignment/deployment, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; date of award of certification of military experience and training; military hospitalization and medical treatment, immunization, and pharmaceutical dosage records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax identification number of providers or potential providers of care.

Selective Service System registration data.

Department of Veteran Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT–1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, including postal workers covered by Civil Service Retirement, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

Military drug test records containing the Social Security Number, date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. App. 3 (Pub.L. 95–452, as amended (Inspector General Act of 1978)); 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 1562, Database on Domestic Violence Incidents; 10 U.S.C. 2358, Research and Development Projects; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified, and

to collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

Military drug test records will be maintained and used to conduct longitudinal, statistical, and analytical studies and computing demographic reports on military personnel. No personal identifiers will be included in the demographic data reports. All requests for Service-specific drug testing demographic data will be approved by the Service designated drug testing program office. All requests for DoD-wide drug testing demographic data will be approved by the DoD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301–1510.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Veteran Affairs (DVA):

a. To provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans and their family members.

b. To provide identifying military personnel data to the DVA and its insurance program contractor for the purpose of notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968).

c. To register eligible veterans and their dependents for DVA programs.

d. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

(1) Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program. The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment (38 U.S.C. 5304(c)).

(2) Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 1606—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

(3) Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 12316) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

(4) Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law requires recoupment of severance payments before DVA disability compensation can be paid (10 U.S.C. 1174).

(5) Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

e. To provide identifying military personnel data to the DVA for the purpose of notifying such personnel of information relating to educational assistance as required by the Veterans Programs Enhancement Act of 1998 (38 U.S.C. 3011 and 3034).

2. To the Office of Personnel Management (OPM):

a. Consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

b. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

(1) Exchanging personnel and financial information on certain military retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

(2) Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DoD to insure that annuities of DoD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

(3) Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DoD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

(4) Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the

reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

3. To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

4. To the Department of Health and Human Services (DHHS):

a. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DoD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

b. To the Office of Child Support Enforcement, Federal Parent Locator Service, DHHS, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; and for conducting computer matching as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services work force (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

Note 1: Information requested by DHHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

Note 2: Quarterly wage information is not disclosed for those individuals performing intelligence or counter-intelligence functions and a determination is made that disclosure could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission (42 U.S.C. 653(n)).

c. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns or residents are counted for HCFA reimbursement to hospitals.

d. To the Center for Disease Control and the National Institute of Mental Health, DHHS, for the purpose of conducting studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members.

5. To the Social Security Administration (SSA):

a. To the Office of Research and Statistics for the purpose of (1) conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings, and

(2) obtaining current earnings data on individuals who have voluntarily left military service or DoD civil employment so that analytical personnel studies regarding pay, retention and benefits may be conducted.

Note 3: Earnings data obtained from the SSA and used by DoD does not contain any information which identifies the individual about whom the earnings data pertains.

b. To the Bureau of Supplemental Security Income for the purpose of verifying information provided to the SSA by applicants and recipients/beneficiaries, who are retired members of the Uniformed Services or their survivors, for Supplemental Security Income (SSI) or Special Veterans' Benefits (SVB). By law (42 U.S.C. 1006 and 1383), the SSA is required to verify eligibility factors and other relevant information provided by the SSI or SVB applicant from independent or collateral sources and obtain additional information as necessary before making SSI or SVB determinations of eligibility, payment amounts, or adjustments thereto.

6. To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

7. To DoD Civilian Contractors and grantees for the purpose of performing research on manpower problems for statistical analyses.

8. To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

9. To the U.S. Coast Guard (USCG) of the Department of Transportation (DOT) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of exchanging personnel and financial information on certain retired USCG military members, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the U.S. Coast Guard and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

10. To the Department of Housing and Urban Development (HUD) to provide data contained in this record system that includes the name, Social Security Number, salary and retirement pay for the purpose of verifying continuing eligibility in HUD's assisted housing programs maintained by the Public Housing Authorities (PHAs) and subsidized multi-family project owners or management agents. Data furnished will be reviewed by HUD or the PHAs with the technical assistance from the HUD Office of the Inspector General (OIG) to determine whether the income reported by tenants to the PHA or subsidized multi-family project owner or management agent is correct and complies with HUD and PHA requirements.

11. To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

12. To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DoD personnel.

13. To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

14. To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 41 U.S.C. 423.

15. To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DoD civilian employees and military members.

16. To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the United States Government under the Debt Collection Act of 1982 (Pub. L. 97–365) and the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

17. To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

18. To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

a. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

b. Exchanging personnel and financial information on certain military retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

19. To the Armed Forces Retirement Home (AFRH), which includes the United States Soldier's and Airmen's Home (USSAH) and the United States Naval Home (USNH) for the purpose of verifying Federal payment information (military retired or retainer pay, civil service annuity, and compensation from the Department of Veterans Affairs) currently provided by the residents for computation of their monthly fee and to identify any unreported benefit payments as required by the Armed Forces Retirement Home Act of 1991, Pub. L. 101–510 (24 U.S.C. 414).

20. To Federal and Quasi-Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC:

a. Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

21. To the Educational Testing Service, American College Testing, and like organizations for purposes of obtaining testing, academic, socioeconomic, and related demographic data so that analytical personnel studies of the Department of Defense civilian and military workforce can be conducted.

Note 4: Data obtained from such organizations and used by DoD does not contain any information which identifies the individual about whom the data pertains.

The DoD 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of record system notices apply to this record system.

Note 5: Military drug test information involving individuals participating in a drug abuse rehabilitation program shall be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The DoD 'Blanket Routine Uses' do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

Access to personal information at both locations is restricted to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221. Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veteran Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, and the Selective Service System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–13572 Filed 5–30–01; 8:45 am]
BILLING CODE 5001–08–U

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers; Notice of Availability for the Draft Environmental Impact Statement/Environmental Report (EIS/EIR) for the Pier J South Maine Terminal Expansion Project, Los Angeles County, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers, Regulatory Branch, in coordination with the Port of Long Beach, has completed a Draft EIS/EIR for the Pier J South Maine Terminal Expansion Project. The Port Long Beach requires authorization pursuant to section 404 of the Clean Water Act and section 10 of the Rivers and Harbors act for 115 acres of landfill in three phases, dredging up to 10,000,000 cubic yards of sediment, construction of a new concrete pile-supported wharf, new terminal buildings and a new rail yard.

FOR FURTHER INFORMATION CONTACT: Questions or comments concerning the Draft EIS/EIR should be directed to Dr. Aaron O. Allen, Project Manager, Regulatory Branch, U.S. Army Corps of Engineers, P.O. Box 532711, Los Angeles, California, 90053–2325, (213) 452–3413.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–13665 Filed 5–30–01; 8:45 am]
BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Tampa Harbor Navigation Project General Reevaluation Report

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare a DEIS for the Tampa Harbor Navigation Project General Reevaluation Report. The non-Federal sponsor for the Tampa Harbor Navigation Project is the Tampa Port Authority.

FOR FURTHER INFORMATION CONTACT: William J. Fonferek, (904) 232–2803, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION: The Committee on Transportation and Infrastructure of the United States House of Representatives, requested the Secretary of the Army to review the report to the Chief of Engineers on the Tampa Harbor, Florida, published as House Document 401, 91st Congress, 2nd Session and other pertinent reports, with a view of determining if the authorized project should be modified in any way at this time, with particular reference to deep draft navigation.

The reason for the study is to reconsider safety and economic efficiency. Many of the project's channels are one-way and might be improved to relieve safety concerns and vessel traffic congestion.

1. *Alternatives:* In addition to the no action alternative, we are considering creating an anchorage area; a secondary channel loop using St. Petersburg Harbor channel; passing lanes; and turning basins at channel intersections. In addition, we will be looking at other options such as main channel deepening; East Bay Channel deepening; constructing previously authorized projects; and the eastward extension of Port Sutton.

2. *Issues:* The Environmental Impact Statement (EIS) will consider impacts on safety, economic efficiency, hardbottom communities, protected species, shore protection, health, water quality, aesthetics and recreation, fish and wildlife resources, cultural resources, energy conservation, socio-economic resources, and other impacts identified through scoping, public involvement, and interagency coordination.

3. *Scoping:* A scoping letter was sent to interested parties on April 30, 2001. In addition, all parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scoping process.

4. *Public Involvement:* We invite the participation of affected Federal, State and local agencies, affected Indian Tribes, and other interested private organizations and parties.

5. *Coordination:* The proposed action is being coordinated with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) under Section 7 of the Endangered Species Act and the Marine Mammal Protection Act, with the FWS under the Fish and Wildlife Act, the NMFS under the Magnuson-Stevens Fishery Conservation and Management Act for Essential Habitat, and with the State Historic Preservation Officer.

6. *Other Environmental Review and Consultation:* The proposed action may involve an evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act; application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act; certification of state lands, easements, and rights of way; and determination of Coastal Zone Management Act consistency.

7. *DEIS Preparation:* It is estimated that the DEIS will be available to the public on or about May 1, 2002.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–13694 Filed 5–30–01; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF EDUCATION

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs

AGENCY: Student Financial Assistance, Department of Education.

ACTION: Notice of revision of the Federal need analysis methodology for the 2002–2003 award year.

SUMMARY: The Secretary of Education announces the annual updates to the tables that will be used in the statutory ''Federal Need Analysis Methodology'' to determine a student's expected family contribution (EFC) for award year 2002–2003 under Part F of Title IV of the Higher Education Act (HEA) of 1965, as amended (Title IV, HEA Programs). An EFC is the amount a student and his or her family may reasonably be expected to contribute toward the student's postsecondary educational costs for purposes of determining financial aid eligibility. The Title IV, HEA Programs include the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs), Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs.

FOR FURTHER INFORMATION CONTACT: Ms. Edith Bell, Program Specialist, U.S. Department of Education, 400 Maryland Avenue, SW (Room 4621, ROB–3), Washington, DC 20202–5444. Telephone: (202) 708–5591. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Part F of Title IV of the HEA specifies the criteria, data elements, calculations, and tables used in the Federal Need Analysis Methodology EFC calculations.

Section 478 of Part F of the HEA requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to take into account inflation. The changes are based, in general, upon increases in the Consumer Price Index.

For the award year 2002–2003 the Secretary is charged with updating the income protection allowance, adjusted net worth of a business or farm, and the assessment schedules and rates to account for inflation that took place between December 2000 and December 2001. However, since the Secretary must publish these tables before December 2001, the increases in the tables must be based upon a percentage equal to the estimated percentage increase in the Consumer Price Index for all Urban Consumers for 2000. The Secretary estimates that the increase in the Consumer Price Index for all Urban Consumers for the period December 2000 through December 2001 will be 2.4 percent. The updated tables are in sections 1, 2, and 4 of this notice.

The Secretary must also revise, for each award year, the table on asset protection allowance as provided for in section 478(d) of the HEA. The Education Savings and Asset Protection Allowance table for the award year 2002–2003 has been updated in section 3 of this notice.

Section 477(b)(5) of Part F of the HEA also requires the Secretary to increase the amount specified for the Employment Expense Allowance to account for inflation based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-earner compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. Therefore, the Secretary is increasing this allowance as described in section 5 of this notice.

The HEA provides for the following annual updates:

1. Income Protection Allowance

This allowance is the amount of living expenses associated with the maintenance of an individual or family that may be offset against the family's income. It varies by family size. The income protection allowance for the dependent student is $2,330. The income protection allowances for parents of dependent students and independent students with dependents other than a spouse for award year 2002–2003 are:

	Number in college				
	1	2	3	4	5
Family size					
2	13,210	10,950	.....	.....	.....
3	16,450	14,210	11,940	.....	.....
4	20,320	18,060	15,810	13,550	.....
5	23,980	21,720	19,470	17,210	14,960
6	28,050	25,790	23,540	21,280	19,030

For each additional family member add $3,170.
For each additional college student subtract $2,250.

The income protection allowances for independent students and independent students without dependents other than a spouse for award year 2002–2003 are:

Marital status	Number in college	Amount
Single	1	$5,300
Married	2	5,300
Married	1	8,470

2. Adjusted Net Worth (NW) of a Business or Farm

A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution since—(1) the income produced from these assets is already assessed in another part of the formula; and (2) the

formula protects a portion of the value of the assets. The portion of these assets included in the contribution calculation is computed according to the following schedule. This schedule is used for parents of dependent students, independent students, independent student without dependents other than a spouse, and independent students with dependents other than a spouse.

If the Net Worth of a Business or Farm is—	Then the Adjusted Net Worth is—
Less than $1	$0
$1 to $95,000	$0 + 40% of NW
$95,001 to $285,000	$38,000 + 50% of NW over $95,000
$285,001 to $470,000	$133,000 + 60% of NW over $285,000
$470,001 or more	$244,000 + 100% of NW over $470,000

3. Education Savings and Asset Protection Allowance

This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables—one for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

DEPENDENT STUDENTS

If the age of the older parent is—	And there are—	
	Two parents	One parent
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,300	1,100
27	4,600	2,200
28	6,900	3,300
29	9,100	4,500
30	11,400	5,600
31	13,700	6,700
32	16,000	7,800
33	18,300	8,900
34	20,600	10,000
35	22,900	11,100
36	25,200	12,200
37	27,400	13,400
38	29,700	14,500
39	32,000	15,600
40	34,300	16,700
41	35,200	17,000
42	36,100	17,400
43	36,700	17,800
44	37,700	18,200
45	38,600	18,600
46	39,600	18,900
47	40,600	19,400
48	41,900	19,900
49	42,900	20,300
50	44,000	20,800
51	45,100	21,200
52	46,500	21,700
53	47,600	22,400
54	49,100	22,900
55	50,300	23,400
56	51,800	24,000
57	53,300	24,700
58	54,900	25,300
59	56,600	26,000
60	58,300	26,600

DEPENDENT STUDENTS—Continued

If the age of the older parent is—	And there are—	
	Two parents	One parent
61	60,000	27,400
62	62,000	28,100
63	63,800	28,900
64	66,000	29,700
65 and over	68,200	30,700

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is—	And the student is—	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,300	1,100
27	4,600	2,200
28	6,900	3,300
29	9,100	4,500
30	11,400	5,600
31	13,700	6,700
32	16,000	7,800
33	18,300	8,900
34	20,600	10,000
35	22,900	11,100
36	25,200	12,200
37	27,400	13,400
38	29,700	14,500
39	32,000	15,600
40	34,300	16,700
41	35,200	17,000
42	36,100	17,400
43	36,700	17,800
44	37,700	18,200
45	38,600	18,600
46	39,600	18,900
47	40,600	19,400
48	41,900	19,900
49	42,900	20,300
50	44,000	20,800
51	45,100	21,200
52	46,500	21,700
53	47,600	22,400
54	49,100	22,900
55	50,300	23,400
56	51,800	24,000
57	53,300	24,700
58	54,900	25,300
59	56,600	26,000
60	58,300	26,600
61	60,000	27,400

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is—	And the student is—	
	Married	Single
62	62,000	28,100
63	63,800	28,900
64	66,000	29,700
65 and over	68,200	30,700

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is—	And the student is—	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,300	1,100
27	4,600	2,200
28	6,900	3,300
29	9,100	4,500
30	11,400	5,600
31	13,700	6,700
32	16,000	7,800
33	18,300	8,900
34	20,600	10,000
35	22,900	11,100
36	25,200	12,200
37	27,400	13,400
38	29,700	14,500
39	32,000	15,600
40	34,300	16,700
41	35,200	17,000
42	36,100	17,400
43	36,700	17,800
44	37,700	18,200
45	38,600	18,600
46	39,600	18,900
47	40,600	19,400
48	41,900	19,900
49	42,900	20,300
50	44,000	20,800
51	45,100	21,200
52	46,500	21,700
53	47,600	22,400
54	49,100	22,900
55	50,300	23,400
56	51,800	24,000
57	53,300	24,700
58	54,900	25,300
59	56,600	26,000
60	58,300	26,600

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the student is—	And the student is—	
	Married	Single
61	60,000	27,400
62	62,000	28,100
63	63,800	28,900
64	66,000	29,700
65 and over	68,200	30,700

4. Assessment Schedules and Rates

Two schedules that are subject to updates, one for dependent students and one for independent students with dependents other than a spouse, are used to determine the expected contribution toward educational expenses from family financial resources. For dependent students, the expected parental contribution is derived from an assessment of the parents adjusted available income (AAI). For independent students with dependents other than a spouse, the expected contribution is derived from an assessment of the family's AAI. The AAI represents a measure of a family's financial strength, which considers both income and assets.

The parents' contribution for a dependent student is computed according to the following schedule:

If AAI is—	Then the Contribution is—
Less than −$3,409 ($3,409)	−$750
($3,409) to $11,800	22% of AAI
$11,801 to $14,800	$2,596 + 25% of AAI over $11,800
$14,801 to $17,800	$3,346 + 29% of AAI over $14,800
$17,801 to $20,800	$4,216 + 34% of AAI over $17,800
$20,801 to $23,900	$5,236 + 40% of AAI over $20,800
$23,901 or more	$6,476 + 47% of AAI over $23,900

The contribution for an independent student with dependents other than a spouse is computed according to the following schedule:

If AAI is—	Then the Contribution is—
Less than −$3,409 ($3,409)	−$750
($3,409) to $11,800	22% of AAI
$11,801 to $14,800	$2,596 + 25% of AAI over $11,800
$14,801 to $17,800	$3,346 + 29% of AAI over $14,800
$17,801 to $20,800	$4,216 + 34% of AAI over $17,800
$20,801 to $23,900	$5,236 + 40% of AAI over $20,800
$23,901 or more	$6,476 + 47% of AAI over $23,900

5. Employment Expense Allowance

This allowance for employment-related expenses, which is used for the parents of dependent students and for married independent students with dependents, recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based upon the marginal differences in costs for a two wage-earner family compared to a one-wage earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of $3,000 or 35 percent of earned income.

6. Allowance for State and Other Taxes

This allowance for State and other taxes protects a portion of the parents' and student's income from being considered available for postsecondary educational expenses. There are four tables for State and other taxes, one each for parents of dependent students, independent students with dependents other than a spouse, dependent students, and independent students without dependents other than a spouse.

PARENTS OF DEPENDENT STUDENTS

If parents' State or territory of residence is—	And parents' total income is—	
	Less than $15,000	$15,000 or more
	Then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8

PARENTS OF DEPENDENT STUDENTS—Continued

If parents' State or territory of residence is—	And parents' total income is—	
	Less than $15,000	$15,000 or more
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is—	And student's total income is—	
	Less than $15,000	$15,000 or more
	Then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

DEPENDENT STUDENTS

If student's State or territory of residence is—	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is—	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Family Education Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; William D. Ford Federal Direct Loan Program, 84.268)

Dated: May 25, 2001.

Greg Woods,

Chief Operating Officer, Student Financial Assistance.

[FR Doc. 01–13636 Filed 5–30–01; 8:45am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on March 17, 2000, an arbitration panel rendered a decision in the matter of *Idaho Commission for the Blind and Visually Impaired* v. *United States Postal Service (Docket No. R–S/99–7).* This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d–1(b) upon receipt of a complaint filed by petitioner, the Idaho Commission for the Blind.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 400 Maryland Avenue, SW., room 3230, Mary E. Switzer Building, Washington, DC 20202–2738. Telephone: (202) 205–9317. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8298.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d–2(c)) (the Act), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

In 1998, the Idaho Commission for the Blind and Visually Impaired, the State licensing agency (SLA), alleged that it made repeated requests for information to the United States Postal Service (USPS) concerning the construction of the new U.S. Postal Service Processing and Distribution Center located at 2201 South Cole Road in Boise, Idaho. Receiving no response to its inquiries or notice of a possible vending facility location as required by the Act, the SLA submitted a letter to the Postal Service District Manager requesting information about the Processing and Distribution Center.

On December 2, 1998, the Postal Service District Manager responded to the SLA's letter requesting information and apologized for the lack of notification. On March 17, 1999, the SLA submitted an application for a vending facility at the Processing and Distribution Center. USPS responded to the SLA's application on March 23, 1999, indicating that they would not agree to the terms of the SLA's application for the permit. On March 29, 1999, representatives from the SLA and USPS met to discuss the application.

USPS's position concerning the application was that the vendor selected for the location at the Processing and Distribution Center would be required to physically be present at the facility 40 hours per week (the ''on-site support'' provision), and the vendor would be precluded from operating any other vending facility location on the property (the ''exclusivity'' provision). USPS further indicated that these terms were non-negotiable and would be required to be included in the application and the resulting vending permit.

On March 30, 1999, the SLA contacted USPS about the pending negotiations on the vending permit and was informed that the on-site support and exclusivity provisions were new permit terms required of blind vendors, but not commercial vendors.

On April 16, 1999, the SLA requested in writing that USPS either approve or deny its application for a vending permit at the Processing and Distribution Center. The SLA did not receive a response from USPS and subsequently filed a request with the Secretary of the Department of Education (Department) to convene a Federal arbitration panel. The SLA alleged that the priority provisions of the Act and its implementing regulations had been violated. An arbitration pre-hearing on this matter was held on December 7, 1999, which resulted in a Stipulated Agreement concerning the issues and facts of the dispute. The parties agreed that the arbitration panel's written award on the stipulated issues would dispose of the dispute without the need for an arbitration hearing. The panel submitted a Final Award and Decision to the Department on March 17, 2000. On May 16, 2000, the Department received a copy, signed by all parties, of the Stipulated Agreement.

Arbitration Panel Decision

The stipulated issues addressed by the arbitration panel were:

1(A). Have limitations been placed on blind vendors as defined by the Randolph-Sheppard Act?

(B). If so, does the U.S. Postal Service have a legal requirement to submit those limitations to the U.S. Department of Education for the Secretary's determination that they are justified?

2. Is the Postal Service in violation of the Act and the U.S. Constitution by requiring on-site support and exclusivity provisions of Randolph-Sheppard vendors, but not of commercial vendors?

3. If the Postal Service did violate the Randolph-Sheppard Act on any of these issues, what is the authority of the arbitration panel to determine the appropriate remedy or remedies?

The arbitration panel ruled that the on-site support and exclusivity provisions required by USPS were limitations as provided in the Act and must be approved by the Secretary of Education and published in the **Federal Register** before they could be required as conditions of approval for the SLA's application. The panel further ruled that by requiring the on-site support and

exclusivity provisions of blind vendors represented by the SLA, USPS was in violation of the Act.

The panel stated that it is the obligation of the head of the United States Postal Service to cause the improper acts or practices to be terminated promptly and to take any other action that is necessary to carry out the Arbitration Panel's award.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: May 25, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

[FR Doc. 01–13637 Filed 5–30–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

[Docket No. EA–239]

Application to Export Electric Energy; Aroostook Valley Electric Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Aroostook Valley Electric Company (AVEC) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before June 15, 2001.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On April 27, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from AVEC to transmit electric energy from the United States to Canada. AVEC, a Maine corporation, owns and operates a 31–MW wood-burning generation facility located in Fort Fairfield, Maine (''the Plant''). This Plant originally was owned by Fairfield Energy Venture (Fairfield).

On October 8, 1985, DOE issued an order (ERA Docket PP–83EA) authorizing Fairfield and Maine Public Service Company (MPSC) jointly to export the electrical output of the Plant to Canada over the MPSC electric system. On December 4, 1985, DOE approved a request by Fairfield to remove its name from that export authorization, leaving MPSC the sole entity authorized to export the Plant's electrical output to Canada. On October 26, 1994, Fairfield sold the Plant to AVEC; however, the Plant remained connected to the MPSC electric system and AVEC continued to rely upon MPSC's export authorization for delivery of the Plant's electrical output to Canada. AVEC now requests its own and separate authority to export the output of the Plant to Canada using the existing MPSC transmission facilities.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the AVEC application to export electric energy to Canada should be clearly marked with Docket EA–239. Additional copies are to be filed directly with Edward F. Tancer, Secretary, Aroostook Valley Electric Company, c/o FPL Energy, LLC, 700 Universe Blvd., Juno Beach, Florida 33408, and Glenn J. Berger, Victor A. Contract, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, NW., Washington, DC 20005–2111.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on May 23, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–13627 Filed 5–30–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–44–000 and GP98–38–000]

EL Paso Natural Gas Company, Vastar Gas Marketing, Inc. and Atlantic Richfield Company; Notice of Settlement Agreement

May 24, 2001.

Take notice that on May 16, 2001, El Paso Natural Gas Company (El Paso), Vastar Gas Marketing, Inc. (Vastar) and Atlantic Richfield Company (ARCO) (collectively referred to as the Signatory Parties) filed, for the Commission's approval a Settlement Agreement (Settlement) under Rule 602 of the Commission's Rules of Practice and Procedure in the captioned dockets. A copy of the Settlement is available for public inspection in the Commission's Public Reference Room and may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Signatory Parties state that the Settlement resolves the Kansas *ad valorem* refund claims raised by El Paso against Vastar and ARCO. El Paso originally sought refunds of approximately $6.6 million from Vastar and/or ARCO. The Settlement resolves these claims, and the related defense of Vastar and ARCO, in exchange for Vastar's and ARCO's lump sum payment of $4.1 million. In addition, the Settlement will result in the full and complete release of Vastar's and ARCO's claims against its royalty owners with respect to Kansas *ad valorem* tax refunds on El Paso's system, and the termination of all related proceedings pending before the Commission as they relate to EL Paso's claims.

Initial comments are due June 5, 2001; relay comments are due June 15, 2001.

Davis P. Boergers,

Secretary.

[FR Doc. 01–13593 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1509–000]

Elizabethtown Power, LLC; Notice of Issuance of Order

May 24, 2001.

Elizabethtown Power, LLC (Elizabethtown) submitted for filing a rate schedule under which Elizabethtown will engage in wholesale electric power and energy transactions at market-based rates. Elizabethtown also requested waiver of various Commission regulations. In particular, Elizabethtown requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Elizabethtown.

On May 10, 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 Elizabethtown 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).

Absent a request to be heard in opposition within this period, Elizabethtown 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 Elizabethtown'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 11, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 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. 01–13602 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1507–000]

Lumberton Power, LLC; Notice of Issuance of Order

May 24, 2001.

Lumberton Power, LLC (Lumberton) submitted for filing a rate schedule under which Lumberton will engage in wholesale electric power and energy transactions at market-based rates. Lumberton also requested waiver of various Commission regulations. In Particular, Lumberton requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Lumberton.

On May 10, 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 Lumberton 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).

Absent a request to be heard in opposition within this period, Lumberton 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 Lumberton'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 11, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 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. 01–13603 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1654–000]

Nine Mile Point Nuclear Station, LLC; Notice of Issuance of Order

May 24, 2001.

Nine Mile Point Nuclear Station, LLC (Nine Mile LLC) filed with the Commission, in the above-docketed proceeding, a proposed tariff under which Nine Mile LLC will engage in the sale of wholesale electric capacity, energy, and certain ancillary services at market-based rates, and a proposed service agreement. Nine Mile LLC's filing also requested certain waivers and authorizations. In particular, Nine Mile LLC requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liabilities by Nine Mile LLC. On May 16, 2001, the Commission issued an order that accepted the rate schedules for sales of capacity and energy at market-based rates (Order), in the above-docketed proceeding.

The Commission's May 16, 2001 Order granted Nine Mile LLC's request for blanket approval under part 34, subject to the conditions found in Appendix A in Ordering Paragraphs (2), (3), and (5):

(2) Within 30 days of the date of this order, any person desiring to be heard

or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Nine Mile LLC 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.

(3) Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, Nine Mile LLC is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Nine Mile LLC, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(5) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Nine Miles LLC's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 15, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 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. 01–13604 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–24–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 24, 2001.

Take notice that on May 18, 2001, Northern Natural Gas Company (Northern) tendered for filing changes in its FERC Gas Tariffs, Fifth Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets proposed to be effective June 18, 2001:

Fifth Revised Volume No. 1

Third Revised Sheet No. 3
Sixth Revised Sheet No. 4
Seventh Revised Sheet No. 5
Sixth Revised Sheet No. 6
Fourth Revised Sheet No. 7

Original Volume No. 2

Sixty-Fifth Revised Sheet No. 1
30 Revised Sheet No. 1A
21 Revised Sheet No. 1A.1
Tenth Revised Sheet No. 1A.2
Twelfth Revised Sheet No. 1A.3
41 Revised Sheet No. 1C.a
1 Revised Sheet No. 155
15 Revised Sheet No. 236
First Revised Sheet No. 820
2 Revised Sheet No. 888
First Revised Sheet No. 967
First Revised Sheet No. 1226
Second Revised Sheet No. 1333
First Revised Sheet No. 1909
First Revised Sheet No. 1956
First Revised Sheet No. 1600
First Revised Sheet No. 1605
First Revised Sheet No. 1610
Second Revised Sheet No. 1644
First Revised Sheet No. 2300
First Revised Sheet No. 2312
First Revised Sheet No. 2447

Northern states that the above sheets effective June 18, 2001 represent the cancellation of individually certificated transportation and/or exchange agreements filed as Rate Schedules X–14, X–18, X–57, X–63, X–74, X–78, X–95, X–96, X–97, X–99, X–105, X–106, X–110, T–18, T–51, and T–57 from Northern's Original Volume No. 2 FERC Gas Tariff, and their associated deletion from the Table of Contents in Northern's Volume Nos. 1 and 2 Tariffs.

Northern further states that copies of the filing have been mailed to each of its 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 Commissions'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. 01–13596 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–395–001]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 24, 2001.

Take notice that on May 21, 2001, Northern Natural Gas Company (Northern), tendered for filing in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective June 1, 2001:

Fifth Revised Volume No. 1

Substitute First Revised Sheet No. 54A
Substitute Twelfth Revised Sheet No. 62

Northern also submitted for filing as part of Northern's Tariff the following Pro Forma tariff sheets to be effective prospectively:

Fifth Revised Volume No. 1

Pro Forma Sheet No. 54A
Pro Forma Sheet No. 62
Pro Forma Sheet No. 300A
Pro Forma Sheet No. 301
Pro Forma Sheet No. 301A

Northern states that it is herein amending its May 1, 2001 filing in the above-referenced proceeding by submitting Substitute First Revised Sheet No. 54A and Substitute Twelfth Revised Sheet No. 62 to be effective June 1, 2001, reflecting the PRA fuel and UAF rate adjustments without the proposed modifications described in its May 21, 2001 filing. With respect to the proposed modifications, Northern is refiling the previously filed Sheet Nos. 54A, 62, 300A, 301, and 301A as Pro Forma tariff sheets to be effective prospectively.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any persons 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. 01–13597 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–369–016 and RP98–39–023]

Northern Natural Gas Company; Notice of Distribution of Refunds Paid

May 24, 2001.

Take notice that on May 18, 2001, Northern Natural Gas Company (Northern) submitted worksheets reflecting the distribution of refunds paid to jurisdictional sales customers on February 9, 2001.

Northern states that these refunds are being made pursuant to the Commission's Order in Public Service Company of Colorado, et al., Docket Nos. RP97–369–000, et al., and the Commission's Order Approving Settlement in Northern Natural Gas Company, Docket No. RP98–39–000.

Northern states that a copy of this report is being mailed to each of Northern's affected jurisdictional sales customers and 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 June 1, 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. 01–13598 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1559–000]

PPL Wallingford Energy, LLC; Notice of Issuance of Order

May 24, 2001.

PPL Wallingford Energy, LLC (PPL Wallingford) submitted for filing a rate schedule under which PPL Wallingford will engage in wholesale electric power and energy transactions at market-based rates. PPL Wallingford also requested waiver of various Commission regulations. In particular, PPL Wallingford requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by PPL Wallingford.

On May 10, 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 issuance of securities or assumptions of liability by PPL Wallingford 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, PPL Wallingford 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 within 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 PPL Wallingsford'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 11, 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. 01–13601 Filed 5–30–01; 8:45am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions to Intervene

May 24, 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.:* 11952–000.

c. *Date Filed:* April 16, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Willwood Dam Project would be located on the Shoshone River, approximately 5 miles southwest of the Town of Ralston, in Park County, Wyoming. The project would be on federal lands administered by the U.S. Bureau of Reclamation.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–863), fax (208) 745–7909.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing Comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Motions to intervene, protests, and comments may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the project number (P–11952–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would use the existing Willwood Dam which has a reservoir surface area of 30 acres and negligible storage capacity and include: (1) a powerhouse with a total installed capacity of 3 megawatts; (2) a 200-foot-long, 12-foot-diameter penstock; (3) a 3-mile-long, 15 kv transmission line; and (4) appurtenant facilities. The project would operate in a run-of-river mode and would have an average annual generation of 23.6 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .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.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-name documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13594 Filed 5–30–01; 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 24, 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:* 11955–000.

c. *Date Filed:* April 16, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Cochiti Dam Hydroelectric Project.

f. *Location:* The proposed project would be located on an existing dam owned by the U.S. Army Corps of Engineers, on the Rio Grande River in Sandoval County, New Mexico. Part of the project would be located on 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:* Mr. Brent L. Smith, President, Northwest Power services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 219–2671, or e-mail address: lynn.miles@ferc.fed.us.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, recommendations, interventions, and protests, may be electronically filed via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* (1) An existing earth-fill dam 251 feet high and 28,300 feet long; (2) an existing reservoir having a surface area of 1,200 acres with a storage capacity of 50,130 acre-feet at an normal water surface elevation of 4,500 feet; (3) a 240 inch diameter steel penstock approximately 300 feet long; (4) a powerhouse containing four 3MW generating units with a capacity of 12 megawatts; (5) a 25 kv transmission line approximately 2 miles long; and (6) appurtenant facilities.

The project would have an annual generation of 246 GWh.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .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 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 comment, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13595 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions to Intervene

May 24, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12006–000.

c. *Date filed:* April 26, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The San Antonio Dam Hydroelectric Project would be located at the existing San Antonio Dam, owned by San Francisco County, California, on San Antonio Creek in Alameda County, California.

f. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Please include the project number (P–12006–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would consist of: (1) The existing 193-foot-high 2,160-foot-long earthfill dam and San Antonio Reservoir, with an 825-acre surface area at normal elevation 468 feet; (2) a 400-foot-long, 10-foot-diameter steel penstock; (3) a powerhouse containing one 2.5 megawatt generating unit; (4) a 5-mile-long, 15-kV transmission line; and (5) appurtenant facilities. The project would have an average annual generation of 10.1 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reprodution at the address in item g above.

l. *Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comments date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .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.

q. *Filing and Service of Responsive Documents:* Any filing must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–13599 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions to Intervene

May 24, 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.:* 12012–000.

c. *Date filed:* April 26, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name and Location of Project:* The Calaveras Dam Hydroelectric Project would be located at the existing Calaveras Dam, owned by San Francisco County, California, on Calaveras Creek in Alameda County, California.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Please include the project number (P–12012–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, it an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would consist of: (1) The existing 210-foot-high, 1,200-foot-long earthfill dam and Calaveras Reservoir, with a 1,450-acre surface area at normal elevation 775 feet; (2) a 400-foot-long, 90-inch-diameter steel penstock; (3) a powerhouse containing one 2.1-megawatt generating unit; (4) a 2-mile-long, 15-kV transmission line; and (5) appurtenant facilities. The project would have an average annual generation of 16.34 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .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.

q. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will 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. 01–13600 Filed 5–30–01; 8:45 am]

BILLING CODE 6717–01–M

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 14, 2001.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. William Robert Baierl, Wexford, Pennsylvania; to retain voting shares of NSD Bancorp, Inc., Pittsburgh, Pennsylvania, and thereby indirectly retain voting shares of Northside Bank, Pittsburgh, Pennsylvania.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Bill Ray Foster, Springfield, Missouri; to acquire additional voting shares of Village Bancshares, Inc., Springfield, Missouri, and thereby indirectly acquire additional voting shares of Village Bank, Springfield, Missouri.

Board of Governors of the Federal Reserve System, May 25, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–13667 Filed 5–30–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 01-13079) published on page 28750 of the issue for Thursday, My 24, 2001.

Under the Federal Reserve Bank of Richmond heading, the entry for Greer Bancshares Incorporated, Greer, South Carolina, is revised to read as follows:

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Greer Bancshares Incorporated, Greer, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Greer State Bank, Greer, South Carolina.

Comments on this application must be received by June 18, 2001.

Board of Governors of the Federal Reserve System, May 25, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–13668 Filed 5–30–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The FTC is seeking public comments on its proposal to extend through September 30, 2004 the current PRA clearance for information collection requirements contained in (1) the Rule Concerning Disclosure of Written Consumer Product Warranty Terms and Conditions; (2) the Rule Governing Pre-Sale Availability of Written Warranty Terms; and (3) the Informal Dispute Settlement Procedures Rule. These clearances expire on September 30, 2001 (collectively, ''Warranty Rules'').

DATES: Comments must be submitted on or before July 30, 2001.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Warranty Rules: Paperwork comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Carole Danielson, Investigator, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Room H–238, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3115.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for Rules 701, 702, and 703 (OMB Control Numbers 3084–0111, 3084–0112, and 3084–0113, respectively).

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Warranty Rules implement the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.* (''the Act''), which governs written warranties on consumer products. The Act directed the FTC to promulgate rules regarding the disclosure of written warranty terms and conditions, rules requiring that the terms of any written warranty on a consumer product be made available to the prospective purchaser before the sale of the product,and rules establishing minimum standards for informal dispute settlement mechanisms that are incorporated into a written warranty. Pursuant to the Act, the Commission published the instant three rules.[1]

Consumer Product Warranty Rule (''Warranty Rule'')

The Warranty Rule specifies the information that must appear in a written warranty on a consumer product. It sets forth what warrantors must disclose about the terms and conditions of the written warranties they offer on consumer products that cost the consumer more than $15.00. The Rule tracts the disclosure requirements suggested in section 102(a) of the Act,[2] specifying information that must appear in the written warranty and, for certain disclosures, mandates the exact language that must be used. The Warranty Rule requires that the information be conspicuously disclosed in a single document in simple, easily understood language. In promulgating this rule, the Commission determined

[1] 40 FR 60168 (December 31, 1975).

[2] 15 U.S.C. 2302(a).

that the items required to be disclosed are material facts about products warranties, the non-disclosure of which would be deceptive or misleading.[3]

The Rule Governing Pre-Sale Availability of Written Warranty Terms (''Pre-Sale Availability Rule'')

In accordance with section 102(b)(1)(A) of the Act, the Pre-sale Availability Rule establishes requirements for sellers and warrantors to make the text of any written warranty on a consumer product available to the consumer before sale. Following the Rule's original promulgation, the Commission amended it to provide sellers with greater flexibility in how to make warranty information available.[4]

Among other things the amended Rule requires sellers to make the text of the warranty readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that the warranty is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements, and also sets out the methods by which warranty information can be made available before the sale if the product is sold through catalogs, mail order, or door-to-door sales.

Informal Dispute Settlement Rule ''(Informal Dispute Settlement Rule'')

This rule specifies the minimum standards which must be met by any informal dispute settlement mechanism that is incorporated into a written consumer product warranty and which the consumer must use before pursuing legal remedies in court. In enacting the Warranty Act, Congress recognized the potential benefits of consumer dispute mechanisms as an alternative to the judicial process. Section 110(a) of the Act sets out the Congressional policy to ''encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms'' (''IDSMs'') and erected a framework for their establishment. As an incentive to warrantors to establish IDSMs, Congress provided in section 110(a)(3), 15 U.S.C. 2310(a)(3), that warrantors may incorporate into their written consumer product warranties a requirement that a consumer must resort to an IDSM before pursuing a legal remedy under the Act for breach of warranty. To ensure fairness to consumers, however, Congress also directed that, if a warrantor were to incorporate such a ''prior resort requirement'' into its written warranty, the warrantor must comply with the minimum standards set by the Commission for such IDSMs. Section 110(a)(2) directed the Commission to establish those minimum standards.

The Informal Dispute Settlement Rule contains extensive procedural standards for IDSMs. These standards include requirements concerning the mechanism's structure (e.g., ,funding, staffing, and neutrality), the qualifications of staff or decision makers, the mechanism's procedures for resolving disputes (e.g., notification, investigation, time limits for decisions, and follow-up), recordkeeping, and annual audits. The Rule requires that warrantors establish written operating procedures and provide copies of those procedures upon request. The Rule's recordkeeping requirements specify that all records may be kept confidential or otherwise made available only on terms specified by the mechanism. However, the records are available for inspection by the Commission and other law enforcement personnel to determine compliance with the Rule, and the records relating to a specific dispute are available to the parties in that dispute. In addition, the audits and certain specified records are available to the general public for inspection and copying.

This rule applies only to those firms that choose to be bound by it by placing a prior resort requirement in their written consumer product warranties. Neither the Rule nor the Act requires warrantors to set up IDSMs. Furthermore, a warrantor is free to set up an IDSM that does not comply with this rule as long as the warranty does not contain a prior resort requirement.

Warranty Rule Burden Statement

Total annual hours burden: 34,000 hours. In 1998, the FTC estimated that the information collection burden of including the disclosures required by the Warranty Rule in consumer product warranties was approximately 34,000 hour per year per manufacturer. Since the Rule's paperwork requirements have not changed since then, and staff believes that the population affected is largely unchanged, staff concludes that its prior estimate remains reasonable. Moreover, since most warrantors would disclose this information even if there were no statute or rule requiring them to do so, this estimate and those below pertaining to the Warranty Rule likely overstate the paperwork burden attributable to it. The Rule has been in effect since 1976, and most warrantors have already modified their warranties to include the information the Rule requires.

The above estimate is derived as follows. Based on conversations with various warrantors' representatives over the years, staff concluded that eight hours per year is a reasonable estimate of warrantors' paperwork burden attributable to the Warranty Rule. This estimate includes the task of ensuring that new warranties and changes to existing warranties comply with the Rule. In 1995, staff reported that the most recently published census data indicated that there was a 17% increase in manufacturing establishments during the 1980s. Adjusting for these increases, staff estimated in 1995 that the number of manufacturing entities had increased to 4,241 ($3,625 \times 1.17$), which produced an adjusted burden figure of 33,928 ($4,241 \times 8$ hours annually/manufacturer), rounded to 34,000. As staff does not believe that the population affected nor the burden per entity has changed materially, it maintains this prior estimate for the instant purposes.

Total annual labor costs: Labor costs are derived by applying appropriate hourly cost figures to the burden hours described above. The work required to comply with the Warranty Rule is predominantly clerical. Based on an average hourly rate of $10 for clerical employees and 34,000 total burden hours, the annual labor cost is approximately $340,000.

Total annual capital or other non-labor costs: The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already modified their warranties to include the information the Rule requires. Rule compliance does not require the use of any capital goods, other than ordinary office equipment, which providers would already have available for general business use.

Pre-Sale Availability Rule Burden Statement

Total annual hours burden: Staff estimates that the burden of including the disclosures required by the Pre-Sale Availability Rule in consumer product warranties is 2,760,000 hours, rounded to the nearest thousand.

In 1998, FTC staff estimated that the information collection burden of including the disclosures required by the Pre-Sale Availability Rule in consumer product warranties was approximately 2, 759,700 hours per year per manufacturer. Since then, some online retailers have begun to post warranty information on their web sites, which should reduce their cost of providing the required information.

[3] 40 FR 60168, 60169–60170.

[4] 52 FR 7569 (March 12, 1987).

However, this method of compliance is still evolving and involves a relatively small number of firms. Furthermore, those online retailers that also operate ''brick-and-mortar'' operations would still have to provide paper copies of the warranty for review by those customers who do not do business online. Thus, online methods of complying with the Rule do not yet appear to be sufficiently widespread so as to significantly alter the measure of burden associated with the Rule.

Given no change in the Rule's paperwork requirements since 1998, the considerations noted above, and staff's belief that the population affected is largely unchanged, staff believes that its prior estimate remains reasonable. That estimate was based on the following calculations regarding retailers and manufacturers. As of 1995, there were 6,552 large retailers, 422,100 small retailers, 146 large manufacturers, and 4,095 small manufacturers. Because of the reduced burden due to the Rule's amendments, large retailers now spend an average of 26 hours per year and small retailers an average of 6 hours per year to comply with the Rule. This yields a total burden of 2,702,952 hours for retailers. Large manufacturers spend an average of 52 hours per year and small manufacturers spend an average of 12 hours per year, for a total burden estimate of 56,732 hours. Thus, the combined total burden is 2,760,000 hours, rounded to the nearest thousand.

Total annual labor cost: The work required to comply with the Pre-Sale Availability Rule is predominantly clerical, e.g., providing copies of manufacturer warranties to retailers and retailer maintenance of them. Assuming a clerical labor cost rate of $10/hour, the total annual labor cost burden is approximately $27,600,000.

Total annual capital or other non-labor costs: De minimis. The vast majority of retailers and warrantors already have developed systems to provide the information the Rule requires. Compliance by retailers typically entails simply filing warranties in binders and posting an inexpensive sign indicating warranty availability.[5] Manufacturer compliance entails providing retailers with a copy of the warranties included with their products.

Informal Dispute Settlement Rule Burden Statement

Total annual hours burden: 36,000 hours. The primary burden from the Informal Dispute Settlement Rule comes from its recordkeeping requirements that apply to IDSMs incorporated into a consumer product warranty. Disclosure requirements are much more limited. Staff estimates that recordkeeping and reporting burdens are 24,625 hours per year and the disclosure burdens are 9,235 hours per year. The total estimated burden imposed by the Rule is thus approximately 34,000 hours, rounded to the nearest thousand. This marks an increase over staff's estimates dating back to the FTC's prior clearance request regarding the Rule. At that time, staff estimated that recordkeeping and reporting burden was 4,334 hours per year and 1,625 hours per year for disclosure requirements or, cumulatively, approximately 6,000 hours.

Although the Rule's paperwork requirements have not changed since the FTC's immediately preceding PRA clearance request, staff now has reason to believe that more manufacturers have since chosen to be covered by the Rule. The calculations underlying these increased estimates follow.

Recordkeeping: The Rule requires that IDSMs maintain individual case files, update indexes, complete semi-annual statistical summaries, and submit an annual audit report to the FTC. The greatest amount of time to meet recordkeeping requirements is devoted to compiling individual case records. Since maintaining individual case records is a necessary function for any IDSM, much of the burden would be incurred in any event; however, staff estimates that the Rule's recordkeeping requirements impose an additional burden of 30 minutes per case. Staff also has allocated 10 minutes per case for compiling indexes, statistical summaries, and the annual audit required by the Rule, resulting in a total recordkeeping requirement of 40 minutes per case.

The amount of work required will depend on the total number of dispute resolution proceedings undertaken in each IDSM. The 1999 audit report for the BBB AUTO LINE states that, during calendar year 1999, it handled 21,392 warranty disputes on behalf of 14 manufacturers (including General Motors, Saturn, Honda, Volkswagen, Isuzu, and Nissan, as well as smaller companies such as Rolls Royce and Land Rover). Industry representatives have informed staff that all domestic manufacturers and most importers now include a ''prior resort'' requirement in their warranties, and thus are covered by the Informal Dispute Settlement Rule. Therefore, staff assumes that virtually all of the 21,392 disputes handled by the BBB fall within the Rule's parameters. Apart from the BBB audit report, 1999 reports were also submitted by the two mechanisms that handle dispute resolution for Toyota and Ford, both of which are covered by the Rule.[6] The Ford IDSM states that it handled 7,246 total disputes. The audit of the Toyota ISDM did not state the total number of disputes handled; however, based on consumer publications tracking the auto industry, staff conservatively estimates that the Toyota IDSM handled approximately 3,600 total disputes. All of the Toyota and Ford disputes are covered by the Informal Dispute Settlement Rule. Daimler-Chrysler is the only major domestic auto manufacturer for which staff has no data. However, assuming that the incidence of disputes relative to sales is proportional to that experienced by Ford, the number of disputes handled by Chrysler's IDSM would be approximately two-thirds of the Ford total, i.e., roughly 4,700 disputes. Based on the above data and assumptions, staff projects that the total number of disputes handled by the Rule's mechanisms total is 36,938. Thus, staff estimates the total burden to be approximately 24,625 hours (36,938 disputes $\times$ 40 minutes $\div$ 60 min./hr.).

Disclosure: The Rule requires that information about the mechanism be disclosed in the written warranty. Any incremental costs to the warrantor of including this additional information in the warranty are negligible. The majority of such costs would be borne by the IDSM, which is required to provide to interested consumers upon request copies of the various types of information the IDSM possesses, including annual audits. Consumers who have dealt with the IDSM also have a right to copies of records relating to their disputes. (IDSMs are permitted to charge for providing both types of information.) Given the small number of entities that have operated programs over the years, staff estimates that the burden imposed by the disclosure requirements is approximately 9,235 hours per year for the existing IDSMs to provide copies of this information. This estimate draws from the estimated number of consumers file claims each year with the IDSMs (36,938) and the assumption that each consumer individually requests copies of the records relating to their dispute. Staff estimates that the copying would require approximately 15 minutes per consumer, including copies of the

[5] Although some retailers may choose to display a more elaborate or expensive sign, that is not required by the Rule.

[6] So far as staff is aware, all or virtually all of the IDSMs subject to the Rule are within the auto industry.

annual audit.[7] Thus, the IDSMs currently operating under the Rule would have a total estimated burden of about 9,235 hours (36,936 × 15 min. 60 min./hr.).

Total annual labor cost: $461,725.

Assuming that IDSMs use skilled clerical or technical support staff to compile and maintain the records required by the Rule at an hourly rate of $15, the labor cost associated with the 24,625 recordkeeping burden hours would be $369,375. If IDSMs use clerical support at an hourly rate of $10 to reproduce records, the labor costs of the 9,235 disclosure burden hours is approximately $92,350. The combined total labor cost for recordkeeping and disclosures is $461,725.

Total annual capital or other non-labor costs: $300,000.

Total capital and start-up costs: The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already developed systems to retain the records and provide the disclosures required by the Rule. Rule compliance does not require the use of any capital goods, other than ordinary office equipment, to which providers would already have access.

The only additional cost imposed on IDSMs operating under the Rule that would not be incurred for other IDSMs is the annual audit requirement. One of the IDSMs currently operating under the Rule estimates the total annual costs of this requirement to be under $100,000. Since there are three IDSMs operating under the Rule (Toyota and Chrysler share the same IDSM, though each company is reported separately), staff estimates the total non-labor costs associated with the Rule to be three times that amount, or $300,000.[8] This extrapolated total, however, also reflects an estimated $120,000 for copying costs, which is accounted for separately under the category below. Thus, estimated costs attribute solely to capital or start-up expenditures is $180,000.

Other non-labor costs: $120,000 in copying costs. This total is based on estimated copying costs of 5 cents per page and several conservative assumptions or estimates. Staff estimates that the ''average'' dispute-related file is about 25 pages long and that a typical annual audit file is about 200 pages in length. For purposes of estimating copying costs, staff assumes that every consumer complainant (or approximately 36,938 consumers) requests a copy of the file relating to his or her dispute. Staff also assumes that, for about 7,388 (20%) of the estimated 36,938 disputes each year, consumers request copies of warrantors' annual audit reports (although, based on requests for audit reports made directly to the FTC, the indications are that considerably fewer requests are actually made). Thus, the estimated total annual copying costs for avarage-sized files would be approximately $46,173 (25 pages/file ×.05×36,938 requests) and $73,880 for copies of annual audits (200 pages/audit report×.05×7,388 requests), for total copying costs of $120,053, rounded to $120,000).

John D. Graubert,

Acting General Counsel.

[FR Doc. 01–13646 Filed 5–30–01; 8:45 am]

BILLING CODE 6750–01–M

[7] This estimate incorporates any additional time needed to reproduce copies of audit reports for consumers upon their request. Inasmuch as consumers request such copies in only a minority of cases, this estimate is likely an overstatement.

[8] The industry source did not break down this estimate by cost item. Staff conservatively included the entire $100,000 in its estimate of capital and other non-labor costs, even though some of this burden is likely already accounted for as labor costs.

GENERAL SERVICES ADMINISTRATION

Office of Communications; Cancellation of an Optional Form by the Department of Defense

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The Department of Defense canceled the following Optional Form because of low usage: OF 80, 999 (Label) (Small)

DATES: Effective May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: April 6, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–13686 Filed 5–30–01; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service; Availability of Draft Environmental Impact Statement: United States Mission to the United Nations

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), the General Services Administration (GSA) has filed with the U.S. Environmental Protection Agency and made available to other government agencies and interested private parties, the Draft Environmental Impact Statement (DEIS) for the demolition of the Federal building currently housing the United States Mission to the United Nations (USUN) and the subsequent construction of a new facility on the same site.

The DEIS is on file at GSA offices in Manhattan. Copies of the DEIS Executive Summary or additional information may be obtained from: General Services Administration, Public Buildings Service—2PT, 26 Federal Plaza, Room 1609, New York, New York, 10278, ATTN: Peter Sneed.

Written comments regarding the DEIS may be submitted until Friday July 13th, 2001 and should be addressed to General Services Administration in care of the above noted individual. A public hearing is scheduled for Wednesday June 13th, 2001, at the New York University Medical College Classroom A, 550 First Avenue (between 31st and 32nd Streets), New York, New York at 7 PM.

Dated: May 14, 2001.

Steve Ruggiero,

Acting Regional Administrator (2A).

[FR Doc. 01–13587 Filed 5–30–01; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–01–45]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: 2002 National Health Interview Survey Basic Module—Revision—OMB. No. 0920–0214, National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). The annual National Health Interview Survey (NHIS) is a basic source of general statistics on the health of the U.S. population. In accordance with the 1995 initiative to increase the integration of surveys within the Department of Health and Human Services, respondents to the NHIS serve as the sampling frame for the Medical Expenditure Panel Survey. This survey is conducted by the Agency for Healthcare Research and Quality. The NHIS has long been used by government, university, and private researchers to evaluate both general health and specific issues, such as cancer, AIDS, and childhood immunizations. Journalists use its data to inform the general public. It will continue to be a leading source of data for the Congressionally-mandated ''Health US'' and related publications, as well as the single most important source of statistics to track progress toward the National Health Promotion and Disease Prevention Objectives, ''Healthy People 2010.''

Because of survey integration and changes in the health and health care of the U.S. population, demands on the NHIS have changed and increased, leading to a major redesign of the annual core questionnaire, or Basic Module, and a redesign of the data collection system from paper questionnaires to computer assisted personal interviews (CAPI). Those redesigned elements were partially implemented in 1996 and fully implemented in 1997. This clearance is for the sixth full year of data collection using the Basic Module on CAPI and for the implementation of Topical Modules (or supplements) on asthma, hearing, vision, disability, environmental health, arthritis, and alternative medicine. The supplements will help track many of the Health People 2010 objectives. This data collection, planned for January—December 2002, will result in publication of new national estimates of health statistics, release of public use micro data files, and a sampling frame for other integrated surveys. There is no cost to the respondents other than their time.

Respondents	Number of respondents	Number of responses/ Respondent	Avg. burden/ response (in hours)	Total burden (in hours)
Family	42,000	1	0.35	14,700
Sample adult	42,000	1	0.70	29,400
Sample child	18,000	1	0.25	4,500
Total	.....	.....	.....	48,600

Dated: May 22, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–13577 Filed 5–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–46]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Willingness to Pay Project—NEW—Epidemiology Program Office (EPO), Centers for Disease Control and Prevention (CDC). The mission of the Prevention Effectiveness Branch is to provide information and training to build internal and external capacity in economic and decision sciences.

This project will use qualitative and quantitative research to develop and test informational approaches (educational materials or product labeling) to educate consumers about food safety issues, develop and test survey instruments and test experimental protocols to be used in the main quantitative data collection; provide a nationally-representative estimate of consumer willingness to pay for (a) publicly-provided reductions in the probability of contracting foodborne illnesses; (b) reductions in severity of symptoms associated with foodborne illnesses, and (c) materials that facilitate private, defensive precautions against foodborne illness during home food preparation (e.g., meat thermometers, antibacterial soaps and cutting boards). Estimate the effect of education programs and product labeling on willingness to pay for the reductions; compare the empirical estimates of the above mentioned consumer willingness to pay derived from a conjoint analysis instrument and a simulated marketplace experiment.

Public awareness and stated concern regarding foodborne illnesses have

increased rapidly over the past decade. The general public while seemingly well informed and concerned about some relevant food safety issues, appear unknowledgeable or ill-informed about emerging issues. The *Food Safety Survey* data suggest that information provided to consumers at the point of purchase may be a fruitful means of educating the public about food safety, and analyses of consumer purchase data indicate that health-related information provided at the point of purchase can make significant long-term changes in purchasing behavior.

While providing health-related information about food has been the focus of major policy initiatives in the last few years, little empirical economic research has attempted to understand the market and welfare effects of different health information policies. In addition, previous research does not address the distribution of effects across different consumers. Policy makers and food manufacturers cannot provide labels that satisfy everyone's information desires while simultaneously catering to consumers' cognitive and time constraints. As a result, policy makers need to understand how different sectors of the consumer population will be affected, particularly those members of the population who face relatively high food safety risks.

The lack of information hinders policy makers from making informed decisions on the proper allocation of resources in this area since the benefits or reducing the risk of illness are not well known. Not having the information readily available makes cost-effectiveness and cost-benefit analyses difficult to do as well as resource-intensive. This data collection effort, then will reduce this burden by making data available to researchers for use in program and policy evaluation. If this data collection effort were not to take place, agencies will either have to continue to piece together data when conducting economic analyses of food safety policies and regulations, or they will fund a large-scale effort like the one being proposed. Another large-scale effort would be a waste of public funds. Providing consumers information about the risks and about protective measures allows consumers to more accurately assess how much they would pay for reductions in this risk, but more importantly, it also informs the consumer as to what the risks are and how they can protect themselves. This information is important since the consumer is the last line of defense in the campaign against foodborne illnesses. There are no costs to respondents.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Survey respondents	5,000	1	30/60	2,500
Virtual shopping respondents	1,200	1	1	1,200
Total				3,700

Dated: May 23, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–13578 Filed 5–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01162]

Disability and Health Screening Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for grant programs entitled ''Disability and Health Screening Programs.'' This program addresses the ''Healthy People 2010'' focus areas of Disability and Secondary Conditions, Environmental Health, and Maternal, Infant, and Child Health. The purpose of the programs is: (1) To establish and enhance screening, follow-up, and referral for Glaucoma and other visual acuity problems and diseases of the eye, and (2) to investigate intestinal motility disorders in children.

B. Eligible Applicants

Assistance will be provided only to the Congressional Glaucoma Caucus Foundation and to Children's Hospital of Buffalo. No other applications are solicited. Eligibility is limited to these applicants because FY 2001 Federal appropriations specifically directs CDC to award these grant funds for the following glaucoma screening and intestinal motility disorder programs:

1. Congressional Glaucoma Caucus Foundation, Whitestone, NY. The Foundation is a non-partisan organization of members of the U.S. Congress whose purpose is to educate their communities about the risks of glaucoma and other blindness-causing eye diseases, and to provide diagnostic screening opportunities for high risk groups in their home districts across the nation.

2. Children's Hospital of Buffalo, Buffalo, NY. Established in 1892, the Children's Hospital of Buffalo is a regional center for comprehensive, specialized pediatric and women's health services. They provide a variety of clinical services for children and see more than 128,000 outpatients per year.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $441,856 is available in FY 2001 to fund one award to the Congressional Glaucoma Caucus Foundation and approximately $176,592 is available to fund one award to the Children's Hospital of Buffalo. It is expected that each award will begin on or about September 1, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Where To Obtain Additional Information

For business management technical assistance, contact: Nancy B. Pillar, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement Number 01162, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, MS E–13, Atlanta,

GA 30341–4146, Telephone: (770) 488–2721, Email Address: nfp6@cdc.gov.

For program technical assistance for the Congressional Glaucoma Caucus Foundation, contact: Joseph B. Smith, National Center on Birth Defects and Developmental Disabilities, 4770 Buford Highway, NE, MS F–35, Atlanta, Georgia 30341, Telephone: (770) 488–7082, Email Address: jos4@cdc.gov.

For program technical assistance for the Children's Hospital of Buffalo, contact: William A. Paradies, National Center on Birth Defects and Developmental Disabilities, 4770 Buford Highway, NE, MS F–45, Atlanta, Georgia 30341, Telephone: (770) 488–4704, Email Address: wep2@cdc.gov.

Dated: May 24, 2001.

Henry S. Cassell III

Acting Director, Procurement and Grant Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–13616 Filed 5–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 66 FR 20148–20149, dated April 12, 2001) is amended to retitle and revise the functional statement of the Division of Quarantine (DQ), National Center for Infectious Diseases (NCID).

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title and functional statement for the Division of Quarantine (CR2) and insert the following:

Division of Global Migration and Quarantine (CR2). (1) Administers a national quarantine program to protect the United States against the introduction of diseases from foreign countries; (2) administers an overseas program for the medical examination of immigrants and others with inadmissible health conditions that would pose a threat to public health and impose a burden on public health and hospital facilities; (3) maintains liaison with and provides information on quarantine matters to other Federal agencies, State and local health departments, and interested industries; (4) provides liaison with international health organizations, such as the Pan American Health Organization and the World Health Organization, and participates in the development of international agreements affecting quarantine; (5) conducts studies to provide new information about health hazards abroad, measures for their prevention, and the potential threat of disease introduction into the United States; and (6) provides logistic support to other programs of the Centers for Disease Control and Prevention in the distribution of requested biologicals and movement of biological specimens through U.S. ports of entry.

Office of the Director (CR21). (1) Manages directs, and coordinates the activities of the Division; (2) provides leadership in development of Division policy, program planning, implementation, and evaluation; (2) identifies needs and resources for new initiatives and assigns responsibilities for their development; (4) coordinates liaison with other Federal agencies, State and local health departments, and interested industries; (5) coordinates liaison with international health organizations; (6) provides administrative services, including procurement, property and supply management, travel arrangements, space and facilities maintenance, and timekeeper coordination; (7) provides budgeting and fiscal management for the Division; (8) provides personnel support to the Division, both for Civil Service and Commissioned Corps employees, and assures that Division is in compliance with HRMO regulations for all personnel matters; (9) reviews and evaluates all administrative services for both headquarters and Quarantine Stations and provides policy procedures and guidance on such matters; (10) provides statistical and information systems consultation for study design and protocol development; (11) provides user and technical support for Local Area Network (LAN) and other designated software and hardware, and maintains LAN and other information systems in accordance with CDC guidelines; (12) designs and implements database management systems in support of Division projects; (13) provides data analysis and statistical consultation in support of Division projects; (14) assists in production of and provides graphics support for presentations and publications related to Division objectives; and (15) evaluates new software and hardware for statistical analysis, database management, graphics production, geographic information systems, and other functions related to Division objectives.

Dated: May 18, 2001.

Jeffrey P. Koplan,

Director.

[FR Doc. 01–13672 Filed 5–30–01; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0063]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Medical Devices; Current Good Manufacturing Practice Quality System Regulation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by July 2, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Devices; Current Good Manufacturing Practice (CGMP) Quality System (QS) Regulation—21 CFR Part 820 (OMB Control No. 0910–0073)—Extension

Under section 520(f) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(f)), the Secretary of the Department of Health and Human Services has the authority to prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a device but not including an evaluation of the safety and effectiveness of a device), packing, storage, and installation of a device conform to CGMP, as described in such regulations, to assure that the device

will be safe and effective and otherwise in compliance with the act.

The CGMP/QS regulation implementing the authority provided by this statutory provision is found in part 820 (21 CFR part 820) of the Code of Federal Regulations and sets forth basic CGMP requirements governing the design, manufacture, packing, labeling, storage, installation, and servicing of all finished medical devices intended for human use. Section 820.20(a) through (e) requires management with executive responsibility to establish, maintain, and/or review: The quality policy; the organizational structure; the quality plan; and the quality system procedures of the organization. Section 820.22 requires the conduct and documentation of quality system audits and reaudits. Section 820.25(b) requires the establishment of procedures to identify training needs and documentation of such training.

Section 820.30(a)(1) and (b) through (j) requires, in the following respective order, the establishment, maintenance, and/or documentation of: Procedures to control design of class III and class II devices, and certain class I devices as listed therein; plans for design and development activities and updates; procedures identifying, documenting, and approving design input requirements; procedures defining design output, including acceptance criteria, and documentation of approved records; procedures for formal review of design results and documentation of results in the design history file (DHF); procedures for verifying device design and documentation of results and approvals in the DHF; procedures for validating device design, including documentation of results in the DHF; procedures for translating device design into production specifications; procedures for documenting, verifying and validating approved design changes before implementation of changes; and the records and references constituting the DHF for each type of device.

Section 820.40 requires the establishment and maintenance of procedures for the review, approval, issuance, and documentation of required records (documents) and changes to those records.

Section 820.50 requires the establishment and maintenance of procedures and requirements to ensure service and product quality, records of acceptable suppliers and purchasing data describing specified requirements for products and services.

Sections 820.60 and 820.65 require, respectively, the establishment and maintenance of procedures for identifying all products from receipt to distribution and for using control numbers to track surgical implants and life-sustaining or supporting devices and their components.

Section 820.70(a) through (e), and (g) through (i) requires the establishment, maintenance, and/or documentation of: Process control procedures; procedures for verifying or validating changes to specification, method, process, or procedure; procedures to control environmental conditions and inspection result records; requirements for personnel hygiene; procedures for preventing contamination of equipment and products; equipment adjustment, cleaning and maintenance schedules; equipment inspection records; equipment tolerance postings; procedures for utilizing manufacturing materials expected to have an adverse effect on product quality; and validation protocols and validation records for computer software and software changes.

Sections 820.72 and 820.75(a), (b) introductory text, (b)(2), and (c) require, respectively, the establishment, maintenance, and/or documentation of: Equipment calibration and inspection procedures; national, international or in-house calibration standards; records that identify calibrated equipment and next calibration dates; validation procedures and validation results for processes not verifiable by inspections and tests; procedures for keeping validated processes within specified limits; records for monitoring and controlling validated processes; and records of the results of revalidation where necessitated by process changes or deviations.

Sections 820.80 and 820.86, respectively, require the establishment, maintenance, and/or documentation of: Procedures for incoming acceptance by inspection, test or other verification; procedures for ensuring that in-process products meet specified requirements and the control of product until inspection and tests are completed; procedures for, and records that show, incoming acceptance or rejection is conducted by inspections, tests or other verifications; procedures for, and records that show, finished devices meet acceptance criteria and are not distributed until device master (DMR) activities are completed; records in the device history record (DHR) showing acceptance dates, results and equipment used; and the acceptance/rejection identification of products from receipt to installation and servicing.

Sections 820.90 and 820.100 require, respectively, the establishment, maintenance and/or documentation of: Procedures for identifying, recording, evaluating, and disposing of nonconforming product; procedures for reviewing and recording concessions made for, and disposition of, nonconforming product; procedures for reworking products, evaluating possible adverse rework effect and recording results in the DHR; procedures and requirements for corrective and preventive actions, including analysis, investigation, identification and review of data, records, causes and results; and records for all corrective and preventive action activities.

Sections 820.120(b) and (d), 820.130, 820.140, 820.150, 820.160, and 820.170, respectively, require the establishment, maintenance, and/or documentation of: Procedures for controlling and recording the storage, examination, release and use of labeling; the filing of labels/labeling used in the DHR; procedures for controlling product storage areas and receipt/dispatch authorizations; procedures for controlling the release of products for distribution; distribution records that identify consignee, product, date and control numbers; and instructions, inspection and test procedures that are made available, and the recording of results for devices requiring installation.

Sections 820.180(b) and (c), 820.181, 820.184, and 820.186 require, respectively, the maintenance of records: That are retained at prescribed site(s), made readily available and accessible to FDA and retained for the device's life expectancy or for 2 years; that are contained or referenced in a DMR consisting of device, process, quality assurance, packaging and labeling, and installation, maintenance, and servicing specifications and procedures; that are contained in DHRs, demonstrate the manufacture of each unit, lot or batch of product in conformance with DMR and regulatory requirements, and include manufacturing and distribution dates and quantities, acceptance documents, labels and labeling, and control numbers; and that are contained in a quality system record (QSR) consisting of references, documents, procedures, and activities not specific to particular devices.

Sections 820.198(a) through (c) and 820.200(a) and (d), respectively, require the establishment, maintenance and/or documentation of: Complaint files and procedures for receiving, reviewing, and evaluating complaints; complaint investigation records identifying the device, complainant, and relationship of the device to the incident; complaint records that are reasonably accessible to the manufacturing site or at prescribed sites; procedures for performing and

verifying that device servicing requirements are met and that service reports involving complaints are processed as complaints; and service reports that record the device, service activity, and test and inspection data.

Section 820.250 requires the establishment and maintenance of procedures to identify valid statistical techniques necessary to verify process and product acceptability; and sampling plans, when used, that are written and based on a valid statistical rationale, and procedures for ensuring adequate sampling methods.

The CGMP/QS regulation amends and revises the CGMP requirements for medical devices set out at part 820. It adds design and purchasing controls; modifies previous critical device requirements; revises previous validation and other requirements; and harmonizes device CGMP requirements with quality system specifications in the international standard, ISO (International Organization for Standardization) 9001:1994 ''Quality Systems—Model for Quality Assurance in Design, Development Production, Installation and Servicing.'' The rule does not apply to manufacturers of components or parts of finished devices, nor to manufacturers of human blood and blood components subject to 21 CFR part 606. With respect to devices classified in class I, design control requirements apply only to class I devices listed in § 820.30(a)(2) of the regulation.

The rule imposes burdens upon finished device manufacturer firms, which are subject to all recordkeeping requirements, and upon finished device contract manufacturer, specification developer, repacker and relabeler, and contract sterilizer firms, which are subject only to requirements applicable to their activities. Due to modifications to the guidance given for remanufacturers of hospital single use devices, reusers of hospital single-use devices will now be considered to have the same requirements as manufacturers in regard to this regulation. The establishment, maintenance, and/or documentation of procedures, records and data required by this final regulation will assist FDA in determining whether firms are in compliance with CGMP requirements, which are intended to ensure that devices meet their design, production, labeling, installation, and servicing specifications and, thus are safe, effective, and suitable for their intended purpose. In particular, compliance with CGMP design control requirements should decrease the number of design-related device failures that have resulted in deaths and serious injuries.

If FDA did not impose these recordkeeping requirements, it anticipates that design-related device failures would continue to occur in the same numbers as before and continue to result in a significant number of device recalls and preventable deaths and serious injuries. Moreover, manufacturers would be unable to take advantage of substantial savings attributable to reduced recall costs, improved manufacturing efficiency, and improved access to international markets through compliance with CGMP requirements that are harmonized with international quality system standards.

The CGMP/QS regulation applies to some 9,229 respondents. These recordkeepers consist of 7,229 original respondents and an estimated 2,000 hospitals that remanufacture or reuse single use medical devices. They include manufacturers, subject to all requirements and contract manufacturers, specification developers, repackers/relabelers and contract sterilizers, subject only to requirements applicable to their activities. Hospital remanufacturers of single use medical devices (SUDs) are now defined to be manufacturers under guidelines issued by the Center for Devices and Radiological Health's (CDRHs) Office of Surveillance and Biometrics. Respondents to this collection have no reporting activities, but must make required records available for review or copying during FDA inspection. The regulation contains additional recordkeeping requirements in such areas as design control, purchasing, installation, and information relating to the remanufacture of single use medical devices. The estimates for burden are derived from those incremental tasks that were determined when the new CGMP/QS regulation became final (October 7, 1996, 61 FR 52602) as well as those carry-over requirements. The carry-over requirements are based on decisions made by the agency on July 16, 1992, under OMB Paperwork Reduction Act submission No. 0910–0073. This still provides valid baseline data.

FDA estimates respondents will have a total annual recordkeeping burden of approximately 3,167,670 hours (shown as 3,167,670 in table 1, of this document, of this justification statement due to rounding). This figure also consists of approximately 114,882 hours spent on a startup basis by 650 new firms. Table 1 of this document identifies burden estimates per sections of the regulation.

In the **Federal Register** of February 28, 2001 (66 FR 12798), the agency requested comments on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours	Total Operating and Maintenance Costs
820.20(a)	9,229	1	9,229	6.58	60,727	
820.20(b)	9,229	1	9,229	4.43	40,884	
820.20(c)	9,229	1	9,229	6.17	56,943	
820.20(d)	9,229	1	9,229	9.89	91,275	
820.20(e)	9,229	1	9,229	9.89	91,275	
820.22	9,229	1	9,229	32.72	301,973	
820.25(b)	9,229	1	9,229	12.68	117,024	
820.30(a)(1)	9,229	1	9,229	1.75	16,151	
820.30(b)	9,229	1	9,229	5.95	54,913	
820.30(c)	9,229	1	9,229	1.75	16,151	
820.30(d)	9,229	1	9,229	1.75	16,151	
820.30(e)	9,229	1	9,229	23.39	215,866	
820.30(f)	9,229	1	9,229	37.42	345,349	
820.30(g)	9,229	1	9,229	37.42	345,349	
820.30(h)	9,229	1	9,229	3.34	30,825	

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours	Total Operating and Maintenance Costs
820.30(i)	9,229	1	9,229	17.26	159,293	
820.30(j)	9,229	1	9,229	2.64	24,365	
820.40[2]	9,229	1	9,229	8.91	82,230	
820.40(a) and (b)	9,229	1	9,229	2.04	18,827	
820.50(a)(1) through (a)(3)	9,229	1	9,229	21.9	202,115	$1,181,925
820.50(b)	9,229	1	9,229	6.02	55,559	
821.60	9,229	1	9,229	0.32	2,953	
821.65	9,229	1	9,229	0.67	6,183	
820.70(a)(1) through (a)(5)	9,229	1	9,229	1.85	17,074	
820.70(b) and (c)	9,229	1	9,229	1.85	17,074	
820.70(d)	9,229	1	9,229	2.87	26,487	
820.70(e)	9,229	1	9,229	1.85	17,074	
820.70(g)(1) through (g)(3)	9,229	1	9,229	1.43	13,197	
820.70(h)	9,229	1	9,229	1.85	17,074	
820.70(i)	9,229	1	9,229	7.5	69,218	
820.72(a)	9,229	1	9,229	4.92	45,407	
820.72(b)(1) and (b)(2)	9,229	1	9,229	1.43	13,197	
820.75(a)	9,229	1	9,229	2.69	24,826	
820.75(b)	9,229	1	9,229	1.02	9,414	
820.75(c)	9,229	1	9,229	1.11	10,244	
820.80(a) through (e)	9,229	1	9,229	4.8	44,299	
820.86	9,229	1	9,229	0.79	7,291	
820.90(a)	9,229	1	9,229	4.95	45,684	
820.90(b)(1) and (b)(2)	9,229	1	9,229	4.95	45,684	
820.100(a)(1) through (a)(7)	9,229	1	9,229	12.48	115,178	
820.100(b)	9,229	1	9,229	1.28	11,813	
820	9,229	1	9,229	0.45	4,153	
820.120(b)	9,229	1	9,229	0.45	4,153	
820.120(d)	9,229	1	9,229	0.45	4,153	
820.130[2]	9,229	1	9,229	0.45	4,153	
820.140[2]	9,229	1	9,229	6.34	58,512	
820.150(a) and (b)	9,229	1	9,229	5.67	52,328	
820.160(a) and (b)	9,229	1	9,229	0.67	6,183	
820.170(a) and (b)	9,229	1	9,229	1.5	13,844	
820.180(b) and (c)	9,229	1	9,229	1.5	13,844	
820.181(a) through (e)	9,229	1	9,229	1.21	11,167	
820.184(a) through (f)	9,229	1	9,229	1.41	13,013	
820.186	9,229	1	9,229	0.4	3,692	
820.198(a) through (c)	9,229	1	9,229	4.94	45,591	
820.200(a) and (d)	9,229	1	9,229	2.61	24,088	
820.250	9,229	1	9,229	0.67	6,183	
Total					3,167,673	$1,181,925

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The typographical errors that appeared in tabel 1 of a notice published in the **Federal Register** of February 28, 2001 (66 FR 12798 at 12801), are corrected in this document as follows: ''820.4'' is corrected to read ''820.40''; and part ''821'', which appeared twice, is corrected to read ''820.60'' and ''820.65'', respectively.

Burden (labor) hour and cost estimates were developed under FDA contract by the Eastern Research Group, Inc. (ERG), in 1996 when the CGMP/QS regulation became final. These figures are still accurate. Additional factors considered in deriving estimates included:

- Establishment type: Query has been made of CDRHs registration/listing

data bank and has counted 7,229 domestic firms subject to CGMPs. They were then grouped as: Manufacturers (5,463), contract manufacturers (204), specification developers (960), repackers/relabelers (574), remanufacturer (21) and contract sterilizers (7). In addition, hospitals that reuse or remanufacture devices are now considered manufacturers under new FDA guidance. It is estimated that out of the 6,000 hospitals in the United States, one-third of them (or 2,000 hospitals) will reuse or remanufacture single use medical devices. Thus, the number of manufacturers will increase from 5,463 to 7,463 making the total number of firms subject to CGMPs 9,229.

- Potentially affected establishments: Except for manufacturers, not every type of firm is subject to every CGMP/QS requirement. For example, all are subject to quality policy (§ 820.20(a)), document control (§ 820.40), and other requirements, whereas only manufacturers and specification developers are subject to part 820 Subpart C—Design Controls. The type of firm subject to each requirement was identified by ERG.

FDA estimated the burden hours (and costs) for the previous CGMP regulation in 1992. That estimate was submitted to OMB on May 4, 1992, under OMB Paperwork Reduction Act submission No. 0910–0073. It was approved by OMB on July 16, 1992, and it expired on June 30, 1995. The methodology used is different than that used by ERG in estimating incremental tasks when the new CGMP/QS became a final rule. Nevertheless, the agency believes its 1992 estimate adequately represents labor hours (and costs) needed to comply with previous CGMP requirements carried over into the new CGMP/QS regulation. The 1992 estimate used 9,289 respondents (rather than 9,229 respondents), which compensates for differences in methodology.

FDA estimates that some 650 ''new'' establishments (marketing devices for the first time) will expend some 114,882 ''development'' hours on a one-time startup basis to develop records and procedures for the CGMP/QS regulation.

FDA estimates that annual labor hours are apportioned as follows: 40 percent—to requirements dealing with manufacturing specifications, process controls and the DHR; 20 percent—to requirements dealing with components and acceptance activities; 25 percent—to requirements dealing with equipment, records (the DMR and QSR), complaint investigations, labeling/packaging and reprocessing/investigating product nonconformance; and 15 percent—to quality audit, traceability, handling, distribution, statistical, and other requirements.

Dated: May 23, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–13655 Filed 5–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10030]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* National Medicare Practitioner and Provider Survey; *Form No.:* HCFA–10030 (OMB# 0938–NEW); *Use:* Under the Medicare Integrity Program, established by the Health Insurance Portability and Accountability Act of 1996, HCFA was instructed to promote the integrity of the Medicare program by, among other things, education providers of services about payment integrity and benefit quality assurance issues. HCFA needs this information to design a national education plan aimed at reducing inadvertent errors caused by a lack of understanding of Medicare Rules and Regulations. The information will assist HCFA in creating high quality, accessible educational opportunities to help Medicare providers, practitioners, office staff and billing agents decrease unintentional errors on Medicare claims.; *Frequency:* Other: One-time only; *Affected Public:* Business or other for-profit; *Number of Respondents:* 9,000; *Total Annual Responses:* 9,000; *Total Annual Hours:* 3,600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Wendy Taylor, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 9, 2001.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–13651 Filed 5–30–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Proposed Project: The National Health Service Corps (NHSC) Recruitment and Retention Assistance Application (OMB No. 0915–0230)—Revision

The National Health Service Corps (NHSC) of the Bureau of Primary Health Care (BPHC), HRSA, is committed to improving the health of the Nation's underserved by uniting communities in need with caring health professionals and by supporting communities' efforts to build better systems of care.

The Application for NHSC Recruitment and Retention Assistance submitted by sites or clinicians request information on the practice site, sponsoring agency, recruitment contact, staffing levels, service users, site's 5-year infant mortality or low birth rate averages, and next nearest site. Assistance in completing the application may be obtained through the appropriate State Primary Care Offices, State Primary Care Associations and HRSA field offices. The information on the application is used for determining eligibility of sites and to verify the need for NHSC providers. Sites must submit an application annually or when they need a provider.

Estimates of annualized reporting burden are as follows:

Type of report	Number of respondents	Response per respondents	Hours per response	Total burden hours
Application	2900	1	.25	725

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 24, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–13657 Filed 5–30–01; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, NW., Washington, DC 20005, (202) 219–9657. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 8A–46, Rockville, MD 20857; (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by HRSA on January 2, 2001, through March 30, 2001.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the

petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, Room 8–05, Rockville, MD 20857. The Court's caption (*Petitioner's Name* v. *Secretary of Health and Human Services*) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Monica Stein on behalf of Matthew James Stein, Boston, Massachusetts, Court of Federal Claims Number 01–0004V
2. Sharon Perkins Falu on behalf of Kashara Angina Falu, Mobile, Alabama, Court of Federal Claims Number 01–0005V
3. Maria and Gabino Avila on behalf of Gabino Avina Avila, Pleasanton, California, Court of Federal Claims Number 01–0009V
4. Ramiro Torres on behalf of Abigail Torres, Wheeling, Illinois, Court of Federal Claims Number 01–0010V
5. Eva and Robert Del Monte on behalf of Matthew Del Monte, Jersey City, New Jersey, Court of Federal Claims Number 01–0014V
6. Xochitl and Jose Garibay on behalf of Jonathan Daniel Garibay, Deceased, San Diego, California, Court of Federal Claims Number 01–0021V
7. Jack L. Morrow, Dayton, Ohio, Court of Federal Claims Number 01–0029V
8. Allison Whittenberg, Minneapolis, Minnesota, Court of Federal Claims Number 01–0032V
9. Jude Kidder, Lafayette, Louisiana, Court of Federal Claims Number 01–0042V
10. Endira Brito on behalf of Jacob Xavier Brito, Odessa, Texas, Court of Federal Claims Number 01–0043V
11. Julie Rundle, Rome, New York, Court of Federal Claims Number 01–0044V
12. Dawn and Ronald Francoeur on behalf of Ashley Francoeur, Westport, Massachusetts, Court of Federal Claims Number 01–0049V
13. Rachel Fox on behalf of Ashlyn Fox, Panama City, Florida, Court of Federal Claims Number 01–0050V
14. Susan and Raul Tellez on behalf of Raul Tellez, San Diego, California, Court of Federal Claims Number 01–0059V
15. Tammy Kuperus on behalf of Phillip Kuperus, Caledonia, Michigan, Court of Federal Claims Number 01–0060V
16. Sharon and James English on behalf of James Jones English, Fort Myers, Florida, Court of Federal Claims Number 01–0061V
17. Marek Milik on behalf of Arthur Milik, Woodmere, New York, Court of Federal Claims Number 01–0064V
18. William Tracy on behalf of Camille Tracy, Boston, Massachusetts, Court of Federal Claims Number 01–0067V
19. Mona Smith, Vienna, Virginia, Court of Federal Claims Number 01–0068V
20. Julie Grimes on behalf of Jacob Grimes, Vienna, Virginia, Court of Federal Claims Number 01–0071V
21. David Krause on behalf of Kelsey Krause, Indianapolis, Indiana, Court of Federal Claims Number 01–0093V
22. Kim DeJong on behalf of Brendan DeJong, Boston, Massachusetts, Court of Federal Claims Number 01–0095V
23. George Carlson on behalf of Teddy Carlson, Boston, Massachusetts, Court of Federal Claims Number 01–0096V
24. Josephine Besable, Seattle, Washington, Court of Federal Claims Number 01–0098V
25. Amy Nicole Melton on behalf of Brittany Nichole Melton, Ada, Oklahoma, Court of Federal Claims Number 01–0105V
26. Jack McFarland on behalf of Kelly McFarland, Boston, Massachusetts, Court of Federal Claims Number 01–0112V
27. Hope Finning on behalf of Kylie Finning, Danbury, Connecticut, Court of Federal Claims Number 01–0113V
28. Tracy A. Redditt on behalf of Autumn Ray Redditt, Falls Church, Virginia, Court of Federal Claims Number 01–0114V
29. Lori Cottrell on behalf of Kirklin Cottrell, Springfield, Missouri, Court of Federal Claims Number 01–0120V
30. Mary Freyer on behalf of Amanda Nicole Freyer, Newburgh, New York, Court of Federal Claims Number 01–0123V
31. Robert Rickett, Vienna, Virginia, Court of Federal Claims Number 01–0128V
32. Gloria Dean Quinn on behalf of Deontray L. Brown, Tylertown, Mississippi, Court of Federal Claims Number 01–0131V
33. Lynda and Robert DeMartino on behalf of Francesca DeMartino, Kennewick, Washington, Court of Federal Claims Number 01–0134V
34. Paula Honroth on behalf of Brittany Honroth, Puyallup, Washington, Court of Federal Claims Number 01–0135V
35. Kathleen and Ernest Cook on behalf of Ernest Alan Cook, Jr., Jackson, Mississippi, Court of Federal Claims Number 01–0142V
36. Sandra and Larry Harris on behalf of Jacob Harris, Farmville, Virginia, Court of Federal Claims Number 01–0146V
37. Sandra Price on behalf of Jerry David Price, Spartanburg, South Carolina, Court of Federal Claims Number 01–0147V
38. Carol Way, Antelope Valley, California, Court of Federal Claims Number 01–0158V
39. Katherine and Joseph Snyder on behalf of Colten Snyder, Ormond Beach, Florida, Court of Federal Claims Number 01–0162V
40. Pam Mack on behalf of Kylee Mack, Joplin, Missouri, Court of Federal Claims Number 01–0163V
41. Jennifer Kehoe on behalf of George Kehoe, Charleston, South Carolina, Court of Federal Claims Number 01–0164V
42. Lisa Ann and Richard Pafford on behalf of Richelle Lorrae Pafford, Cheyenne, Wyoming, Court of Federal Claims Number 01–0165V
43. Mary A. Schlereth, Cumberland, Maryland, Court of Federal Claims Number 01–0174V
44. Michelle and Dwight Huston on behalf of Christopher Sanders, Vienna, Virginia, Court of Federal Claims Number 01–0175V
45. Nancy Demidio, Boston, Massachusetts, Court of Federal Claims Number 01–0183V

Dated: May 24, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01–13656 Filed 5–30–01; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4655–N–15]

Notice of Proposed Information Collection: Comment Request; Review of Health Care Facility Portfolios

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 30, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room, 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Eric Stevenson, Office of Multifamily Development, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone number (202) 708–3000, extension 2544 (this is not a toll-free number), for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1955 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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 the agency's estimate of the burden of the proposed collection of information; (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; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Review of Health Care Facility Portfolios.

OMB Control Number, if Applicable: 2502–0545.

Description of the Need for the Information and Proposed Use: An owner and/or an operator of health care facilities (nursing homes, intermediate care facilities, board and care facilities, or assisted living facilities) may wish to finance or refinance large groups of those facilities. If it intends to seek FHA mortgage insurance for loans for these facilities, and it is planning to finance or refinance a minimum of 11 health care facilities, with combined estimated mortgage amount of $75 million or more, during an 18 month period, then the owner/operator must furnish information that has not been previously required with the application for mortgage insurance. The owner and/or operator will be acting with an FHA-approved lender, or, if the application is to be processed with Multifamily Accelerated Processing (MAP), the lender must be MAP-approved.

The information includes a Corporate Credit Analysis, to be submitted to a credit rating agency (Standard & Poor's, Moody's Investor Services, Fitch IBCA, Duff & Phelps). The Corporate Credit Analysis includes detailed financial information, management policies, and corporate strategy. Owners/operators with 50 or more projects, with estimated combined mortgage amount of $250 million or more must file, in addition to the Corporate Credit Analysis, more detailed information than is required for non-portfolio owners in connection with the site visit. These large-size owners/operators must also provide information on their other properties and lines of business not being financed.

The information is collected and evaluated, first by a rating agency and then by HUD. The purpose is to determine the financial strength and management reliability of the owner/operator. If the owner and/or the operator should go into bankruptcy or be unable to continue management of its large group of properties to keep operating successfully would be severely jeopardized. The failure of the owner/operator could lead to assignments to HUD of large numbers of health care facilities, and serious resulting charges to the mortgage insurance fund.

Agency Form Numbers, if Applicable: None.

Estimation of the Total Numbers of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: The estimated number of respondents is 15, the frequency of responses is one per respondent, estimated time to finish each response is approximately 80 hours, and the total annual burden hours requested is 1200.

Status of the Proposed Information Collection: Extension of currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 21, 2001.

Sean G. Cassidy,

General Deputy, Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 01–13576 Filed 5–30–01; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–37]

Notice of Submission of Proposed Information Collection to OMB Issuer's Monthly Accounting Reports

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 2, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2503–0004) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement;

and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department. This Notice also lists the following information:

Title of Proposal: Issuer's Monthly Accounting Reports.

OMB Approval Number: 2503–0004.

Form Numbers: HUD–11710–A, 11710–B, 11710–C, 11710–D, 11710–E.

Description of the Need for the Information and its Proposed Use: Data is collected to assure Ginnie Mae that issuers are performing pursuant to the terms of the guaranty agreements and investors are receiving all funds due them. Issuers use forms to report monthly on their securities transactions.

Respondents: Business or other for-profit, Federal Government.

Frequency of Submission: Monthly.

Reporting Burden:

Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
455		529		.16		42,135

Total Estimated Burden Hours: 42,135.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 22, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–13574 Filed 5–30–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–38]

Notice of Submission of Proposed Information Collection to OMB; Disaster Recovery Report Grant Reporting System

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 2, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2506–0165) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department. This Notice also lists the following information:

Title of Proposal: Disaster Recovery Grant Reporting System.

OMB Approval Number: 2506–0165.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Cities, counties, and states that have received program grants describe their recovery needs, develop actions plans, and report performance on a Disaster Recovery Grant Reporting System. This electronic data collection system has been placed on the world wide web. Grantees use the system and HUD field offices use it to review grantee action plans and performance.

Respondents: State, Local or Tribal Government.

Frequency of Submission: Quarterly.

Reporting Burden:

Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
145		4		32		18,560

Total Estimated Burden Hours: 18,560.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 22, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–13575 Filed 5–30–01; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry exploration activities have been issued to the following company:

Company	Activity	Location	Date issued
BP Exploration (Alaska)	Exploration	Liberty	April 30, 2001.
WesternGeco	Exploration	Beaufort Sea	May 4, 2001.

Contact: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: The Letters of Authorization are issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations ''Marine Mammals; Incidental Take During Specified Activities (65 FR 16828; March 30, 2000).''

Dated: May 16, 2001.

David B. Allen,

Regional Director.

[FR Doc. 01–13592 Filed 5–30–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Publication, Final Assessment Plan

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of publication.

SUMMARY: The U.S. Fish and Wildlife Service (Service), on behalf of the Department of the Interior (DOI), as a natural resource trustee, announces the publication of the Final Assessment Plan (AP) for the Natural Resource Damage Assessment and Restoration of the August 27, 1998, Clinch River Chemical Spill, Tazewell County, Virginia. The Final AP describes the DOI's proposal to assess natural resource injuries that resulted from this chemical spill.

ADDRESSES: Requests for copies of the Final AP may be made to: John Schmerfeld, U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, Virginia 23061.

FOR FURTHER INFORMATION CONTACT: John Schmerfeld, Environmental Contaminants Branch, U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, Virginia 23061. Interested parties may also call 804–693–6694. Ext. 107, or send e-mail to john_schmerfeld@fws.gov for further information.

SUPPLEMENTARY INFORMATION: On August 27, 1998, a tanker truck overturned on U.S. Route 460 in Tazewell County, Virginia. The truck released approximately 1,350 gallons of Octocure 554-revised, a rubber accelerant, into an unnamed tributary about 530 feet from its confluence with the Clinch River. Upon entry of the spill into the river, the river turned a snowy-white color. After the spilled substance passed downstream, observers noted evidence of an extensive fish kill and the destruction of most aquatic organisms from the area of the spill extending to at least 6.6 miles downstream. The Clinch River ecosystem ranks among the top areas of freshwater biodiversity in the world, and, prior to the spill, the affected portion of the Clinch housed a unique and diverse freshwater mussel assemblage that included three species that are federally listed as endangered.

Under the authority of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), ''natural resource trustees may assess damages to natural resources resulting from a discharge of oil or a release of a hazardous substance * * * and may seek to recover those damages.'' Natural resource damage assessments are separate from the cleanup actions undertaken at a hazardous waste or spill site, and provide a process whereby the natural resource trustees can determine the proper compensation to the public for injury to natural resources. The natural resource damage assessment process seeks to: (1) Determine whether injury to, or loss of, trust resources has occurred; (2) ascertain the magnitude of the injury or loss; (3) calculate the appropriate compensation for the injury, including the cost of restoration; and (4) develop a restoration plan that will restore, rehabilitate, replace, and/or acquire equivalent resources for those resources that were injured or lost.

The Final AP presents the trustee's approaches for determining and quantifying natural resource injuries and calculating the damages associated with those injuries. By developing an AP, the trustee can ensure that the natural resource damage assessment will be completed at a reasonable cost relative to the magnitude of damages. This AP presents proposed assessment methodologies to potentially responsible parties, other trustees, affected agencies, and to the public, so that these groups can productively participate in the assessment process. The Final AP is being released in accordance with the Natural Resource Damage Assessment Regulations found at title 43 of the Code of Federal Regulations part 11.

A notice of availability of the Draft AP was published in the **Federal Register** on June 1, 2000, (volume 65, number 106, page 35120). The notice of availability indicated that the 30-day public comment period would end on July 1, 2000; however, comments were received and considered past that date. Comments received concerning the Draft AP are documented in chapter 8 of the Final AP.

The Draft AP indicated that a caged mussel study would be conducted as part of the damage assessment phase. After some consideration, the trustee determined that a pared-down translocation study was more appropriate due to a cost reduction of approximately 50 percent, a decreased probability of vandalism in the populated area, and indications that the sediment contaminant load in the impacted river reach has lessened over time. This change is considered to be minor and not of sufficient magnitude to warrant another 30 day public comment period. Details of the translocation study can be found in chapter 5 of the Final AP.

Interested members of the public may request copies of the Final AP from the U.S. Fish and Wildlife Service's Virginia Field Office at 6669 Short Lane, Gloucester, Virginia 23061. Additionally, the Final AP is available for review at the Tazewell County Main Library, 310 East Main Street, Tazewell, Virginia 24651, and the Tazewell County Library, Richlands Branch, 102

Suffolk Avenue, Richlands, Virginia 24641.

Author: The primary author of this notice is John Schmerfeld, U.S. Fish and Wildlife Service, Virginia Field Office at 6669 Short Lane, Gloucester, Virginia 23061.

Authority: The authority for this action is the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C.

Dated: May 8, 2001.

Linda J. Repasky,

Acting Regional Director, Region 5, U.S. Fish and Wildlife Service.

[FR Doc. 01–13652 Filed 5–30–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Marine Mammal Annual Report Availability, Calendar Years 1997 and 1998

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of marine mammal annual reports for calendar years 1997 and 1998.

SUMMARY: We, the U.S. Fish and Wildlife Service and the Biological Resources Division of the U.S. Geological Survey, have issued our 1997 and 1998 annual reports on marine mammals under the jurisdiction of the U.S. Department of the Interior, as required by section 103(f) of the Marine Mammal Protection Act of 1972. Our reports are for January 1 to December 31, 1997, and January 1 to December 31, 1998. We submitted the reports to Congress on May 2, 2001. By this notice, we are informing you, the public, that the reports are available and that copies may be obtained on request to the U.S. Fish and Wildlife Service.

ADDRESSES: You should submit written requests for copies to: Publications Unit, U.S. Fish and Wildlife Service, National Conservation Training Center, Route 1, Box 1666, Shepherd Grade Road, Shepherdstown, WV 25443. You may also contact that office by telephone at (304) 876–7203.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Horwath, Division of Fish and Wildlife Management Assistance in Arlington, Virginia at telephone (703) 358–1718.

SUPPLEMENTARY INFORMATION: The U.S. Department of the Interior is responsible for eight species of marine mammals, as assigned by the Marine Mammal Protection Act of 1972. These species are polar bear, sea and marine otters, walrus, three species of manatee, and dugong. Administrative actions discussed in our two reports include appropriations, marine mammals in Alaska, endangered and threatened marine mammal species, law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies and international activities.

Dated: May 21, 2001.

Robert Batky,

Acting Assistant Director—Fisheries and Habitat Conservation.

[FR Doc. 01–13591 Filed 5–30–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[CA–160–1220–PG]

Santa Rosa and San Jacinto Mountains National Monument Advisory Committee; Notice of Intent to Establish and Call for Nominations

AGENCIES: Bureau of Land Management, Interior; Forest Service, Agriculture.

ACTION: Notice of intent to establish and call for nominations for the Santa Rosa and San Jacinto Mountains National Monument Advisory Committee under the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, Public Law 106–351 (16 U.S.C. 431 note).

SUMMARY: The Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (Act) requires the Secretaries of Interior and Agriculture to establish a National Monument Advisory Committee (Committee) to advise them on resource management issues associated with the Santa Rosa and San Jacinto Mountains National Monument. This notice requests the public to submit nominations for membership on the Committee. The Committee will be managed under the provisions of the Federal Advisory Committee Act.

DATES: Submit nominations to one of the addresses listed below no later than July 2, 2001.

ADDRESSES: Send nominations to: Advisory Committee Nominations, Mr. James G. Kenna, Bureau of Land Management, P.O. Box 581260, North Palm Springs, California 92258, 760–251–4800 or Mr. Fran Colwell, Forest Service, 1824 S. Commercenter Circle, San Bernardino, California 92408, 909–884–6634 x 3144.

FOR FURTHER INFORMATION CONTACT: Mr. James G. Kenna, Bureau of Land Management, 760–251–4800 or Mr. Fran Colwell, Forest Service, 909–884–6634 x 3144.

SUPPLEMENTARY INFORMATION: As directed by the Act, the Secretary of the Interior and the Secretary of Agriculture are jointly establishing an advisory committee for the Santa Rosa and San Jacinto Mountains National Monument (Monument). The Committee's purpose is to advise the Secretaries with respect to the preparation and implementation of a management plan for the Monument. The Committee will meet periodically at the request of the designated Federal officer, or his or her designee, to gather and analyze information, conduct studies and field examinations, hear public testimony, ascertain facts, and, in an advisory capacity only, develop recommendations concerning planning for the management and uses of the National Monument. The Committee will normally meet twice annually, but in no case less than once annually. Additional meetings may be called by the designated Federal officer or his or her designee in connection with special needs for advice. A Committee Chairperson and Vice Chairperson will be elected by the Committee from among its members annually.

Any individual or organization may nominate one or more persons to serve on the Committee. Individuals may nominate themselves for Committee membership. You may obtain nomination forms from the BLM or Forest Service by contacting the individuals listed in **ADDRESSES** above. To make a nomination, you must submit a completed nomination form, letters of reference from the represented interests or organizations, and any other information that speaks to the nominee's qualifications, to the offices listed above. You may make nominations for the following categories of interest, as specified in the Act: (1) A representative with expertise in natural science and research selected from a regional college or university; (2) a representative of the California Department of Fish and Game or the California Department of Parks and Recreation; (3) a representative of the County of Riverside, California; (4) a representative from each of the following cities: Palm Springs, Cathedral City, Rancho Mirage, La Quinta, Palm Desert, and Indian Wells; (5) a representative of the Agua Caliente

Band of Cahuilla Indians; (6) a representative of the Coachella Valley Mountains Conservancy; (7) a representative of a local conservation organization; (8) a representative of a local developer or builder organization; (9) a representative of the Winter Park Authority; and (10) a representative of the Pinyon Community Council. Nominations to the Committee should describe and document the proposed member's qualifications for membership on the Advisory Committee.

Committee members will be appointed to serve 3-year terms, except that, of the members first appointed, one-third of the members shall be appointed for a term of 1 year and one-third of the members shall be appointed for a term of 2 years. All members will serve without pay but will be reimbursed for travel and per diem expense at current rates for government employees under 5. U.S.C. 5703.

Appointments to the Committee will be made by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.

Dated: May 22, 2001.

Tim Salt,

California Desert District Manager, Bureau of Land Management.

Dated: May 22, 2001.

Paul Weeden,

Acting Forest Supervisor, San Bernardino National Forest.

[FR Doc. 01–13693 Filed 5–30–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–080–1210–PG]

Upper Columbia—Salmon Clearwater District, Idaho; Notice of Resource Advisory Council Meeting

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia—Salmon Clearwater District Resource Advisory Council (RAC) on Wednesday, June 13, 2001 and Thursday, June 14, 2001 in Missoula, Montana.

Agenda items include: fire and fuels management; election of officers; and identification of future issues. The meeting will begin at 1:00 p.m. (MDT), June 13, 2001 at the C'mon Inn, 2775 Expo Parkway, Missoula, Montana. The public may address the Council during the public comment period from 3:00 p.m.–3:30 p.m. on June 13, 2001.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

The Council's responsibilities include providing recommendations concerning long-range planning and establishing resource management priorities.

FOR FURTHER INFORMATION CONTACT: Ted Graf (208) 769–5004.

Dated: May 18, 2001.

Ted Graf,

Acting District Manager.

[FR Doc. 01–13590 Filed 5–30–01; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–01–1430–ES; AZA 31132]

Arizona: Notice of Realty Action; Classification of Public Land for Recreation and Public Purposes Lease or Conveyance, Yuma County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described public land in Yuma County has been examined and found suitable for classification for lease or conveyance under the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*). In accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and Executive Order No. 6910, the described land is hereby classified for disposal by R&PP conveyance. Public land affected is identified as follows:

Gila and Salt River Meridian, Yuma County, Arizona

T. 9 S., R. 22 W.,
Sec. 9, S½SW¼.

The area described contains 80 acres.

SUPPLEMENTARY INFORMATION: The City of Yuma (City), Arizona, has filed an R&PP application to construct a Regional Public Works Operation Facility that will provide wastewater collection and treatment for existing and new development in the East Mesa Area. This land is identified in the Yuma District Resource Management Plan, as amended, as having potential for disposal. Lease or conveyance of the land for recreation or public purposes would be in the public interest. The lease or conveyance, when issued, will contain the following terms, conditions, and reservations:

1. The provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. Rights-of-way for ditches and canals constructed by the authority of the United States. (Act of August 30, 1890 [43 U.S.C. 945])

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations to be established by the Secretary of the Interior.

4. Those rights for a public highway that may have been granted by Congress pursuant to the Act of July 26, 1866, 43 U.S.C. (repealed 1976) (AZA 6389).

5. Those rights for a 100-foot-wide public road right-of-way, known as the ''Area Service Highway'' (AZA 23977).

Upon publication of this notice in the **Federal Register**, the land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws, and material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested people may submit comments regarding the proposed lease/conveyance or classification of the land to the Field Manager, Yuma Field Office, 2555 E. Gila Ridge Road, Yuma, Arizona 85365.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a public works operation facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the Bureau of Land Management followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a public works operation facility. Any adverse comments will be reviewed by the Arizona State Director.

In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Francis Rodriguez, Realty Specialist, Yuma Field Office, 2555 E. Gila Ridge Road, Yuma, Arizona 85365, telephone (520) 317–3213.

Dated: May 16, 2001.

Maureen A. Merrell,

Assistant Field Manager, Business and Fiscal Services/Acting Field Manager.

[FR Doc. 01–13589 Filed 5–30–01; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Renewal of the Grassland Bypass Project, Fresno, Merced, and Stanislaus Counties, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the final environmental impact statement/environmental impact report (Final EIS/EIR).

SUMMARY: Pursuant to the National Environmental Policy Act and the California Environmental Quality Act, the Bureau of Reclamation (Reclamation) and the San Luis and Delta-Mendota Water Authority (Authority) prepared a joint Final EIS/EIR for the renewal of the Grassland Bypass Project through 2009. Since October 1996, the current Grassland Bypass Project has significantly improved the quality of water in more than 93 miles of channels used to deliver water to wetland habitat areas in central California, while sustaining the agricultural economy of the Grassland Drainage Area. Action taken by Reclamation would continue the Project through December 2009. The Final EIS/EIR addresses the potential environmental impacts expected to result from renewal of this Project and two alternatives.

DATES: Reclamation will not make a decision on the proposed action until 30 days after release of the Final EIS/EIR. After the 30-day waiting period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: Copies of the Final EIS/EIR may be requested from Mr. Michael Delamore, Bureau of Reclamation, 1213 N Street, Fresno, California 93721; telephone (559) 487–5039; e-mail: mdelamore@mp.usbr.gov. The Executive Summary for the Final EIS/EIR will be posted on the Internet at *http://www.mp.usbr.gov*. See the **SUPPLEMENTARY INFORMATION** section for locations where copies of the Final EIS/EIR are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Delamore, at the address listed above, or Mr. Joe McGahan, Regional Drainage Coordinator, Summers Engineering Inc., P.O. Box 1122, Hanford, California 93232; telephone (559) 582–9237; e-mail jmcgahan@summerseng.com.

SUPPLEMENTARY INFORMATION: The purposes of the Grassland Bypass Project are to (1) continue separation of unusable agricultural drainwater discharged from the Grassland Drainage Area from wetland water supply conveyance channels for the period 2001–2009, and (2) facilitate drainage management that maintains the viability of agriculture in the Grassland Drainage Area and promote continuous improvement in water quality in the San Joaquin River.

Under the Proposed Action, unusable agricultural drainwater from about 98,000 acres of prime farmland would continue to be separated from wetland water supply channels and conveyed to Mud Slough, a tributary of the San Joaquin River. The monthly and annual loads of selenium and other constituents in this drainwater would be progressively reduced to meet water quality requirements in the river that will become effective in 2005 and 2010. The term of this Project will be October 1, 2001, through December 31, 2009.

In the Final EIS/EIR, the Proposed Action is compared with two alternatives: a No-Action Alternative, and the Mud Slough Bypass Alternative that would be the Grassland Bypass Project plus the construction of a facility that would convey drainwater directly to the San Joaquin River. The latter alternative would remove drainwater from 6 additional miles of Mud Slough and discharge it into the San Joaquin River downstream of its confluence with the Merced River.

Notice of the Draft EIS/EIR was published in the **Federal Register** on December 26, 2000 (65 FR 81545). Public hearings were held on February 2, 6, and 7, 2001. The written comment period ended February 27, 2001. The Final EIS/EIR contains responses to all comments received and changes made to the text of the Draft EIS/EIR as a result of those comments.

Copies of the Final EIS/EIR are available for inspection at the following locations:

- San Luis and Delta-Mendota Water Authority, 800 6th Street, Los Banos, California 93635; telephone: (209) 826–9696
- Bureau of Reclamation, South-Central California Area Office, 1243 N Street, Fresno, California 93721; telephone (559) 487–5116
- Bureau of Reclamation, Public Affairs Office, 2800 Cottage Way, Sacramento, California 95825; telephone (916) 978–5100
- Fresno County Public Library, Government Publications, 2420 Mariposa Street, Fresno, California 93721; telephone (559) 488–3198
- Merced County Public Library, Los Banos Branch, 1312 South 17th Street, Los Banos, California 93635; telephone (209) 826–5254
- University of California, Berkeley, Water Resources Center Archives, 410 O'Brien Hall, Berkeley, California 94720; telephone (510) 642–2666
- Bureau of Reclamation, Office of Policy, Room 7456, 1849 C Street NW., Washington, DC 20240; telephone: (202) 208–4662
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, 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. 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 disclosure in their entirety.

Dated: May 24, 2001.

Kirk. C. Rodgers,

Acting Regional Director.

[FR Doc. 01–13617 Filed 5–30–01; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CALFED Bay-Delta Program Policy Group

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The CALFED Bay-Delta Program Policy Group will meet on June 14, 2001. The agenda for the Policy Group meeting will include discussions about the CALFED Bay-Delta Program's: Record of Decision Commitments and Accomplishments; Year 2 Budget; Science Program Activities; and 2001 Funded Projects. This meeting is open to the public. Interested persons may make oral statements to the CALFED Bay-Delta Program Policy Group or may file statements for consideration.

DATES: The CALFED Bay-Delta Program Policy Group meeting will be held from 9 a.m. to 5 p.m. on Thursday, June 14, 2001.

ADDRESSES: This meeting will meet at the Sacramento Convention Center, 1400 J Street, Room 204, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Rick Breitenbach, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact Pauline Nevins at (916) 657–2666 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system.

One area of Bay-Delta management includes a joint State-Federal process to develop and implement long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the direction of the CALFED Policy Group.

Dated: May 18, 2001.

Lowell C. Ploss,

Acting Regional Director.

[FR Doc. 01–13607 Filed 5–30–01; 8:45 am]

BILLING CODE 4310–MP–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Reinstatement with changes of a previously approved collection for which approval has expired: The National Survey of Inmates in Local Jails.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 30, 2001.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(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 the agency's estimate of the burden of the collection of information, 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

If you have additional comments, suggestions, or additional information, especially regarding the estimated public burden and associated response time, please write to Larry Greenfeld, Acting Director, Bureau of Justice Statistics, 810 Seventh St. NW., Washington, DC 20531. If you need a copy of the collection instruments with instructions, or have additional information, please contact Doris James Wilson at (202) 616–3625.

Overview of this information collection:

(1) Type of information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) The title of the Form/Collection: The National Survey of Inmates in Local Jails.

(3) The agency form number and the applicable component of the Department sponsoring the collection: Forms: SIJ–43(X) CAPI instrument; and SIJ–50(X) Sampling Questionnaire. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked to respond, as well as a brief abstract: Primary: Individuals and households. Others: State and local governments. The national survey will include an estimated 7,500 personal interviews with inmates held in local facilities. The national survey will include a full scale implementation of the CAPI questionnaire, automated data control systems, and sample selection instruments. This is a national survey that will profile jail inmates nationwide to determine trends in inmate composition, criminal history, drug abuse, mental and medical status, gun use and crime, and inmate activities while in jail. Data from this national survey will be used by the Bureau of Justice Statistics in published reports and the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics. No other collection series provides these data.

(5) An estimate of the total number of respondents and the amount of time needed for an average respondent to respond: 8,420 respondents—7,500 personal interviews each taking an average 1 hour to respond; and 460 jails taking ¼ an hour to provide a roster of inmates; and 460 jails at ¼ an hour to verify the roster.

(6) An estimate of the total public burden (in hours) associated with the collection: 7,730 annual burden hours.

If additional information is required, contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, 1331 Pennsylvania Ave., NW., National Place Building, Washington, DC 20530.

Dated: May 24, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–13588 Filed 5–30–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; new collection census of tribal justice agencies.

The Department of Justice, Office of Justice Programs, bureau of Justice Statistics, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 30, 2001.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ellen Wesley, (202) 616–3558, Office of Budget and Management Services, Office of Justice programs, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20531.

Written comments and suggestions for the public and affected agencies concerning the proposed collection of information should address on or more of the following four points:

(1) Evaluate 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) 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;

(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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of Information Collection:* New Collection.

(2) *The Title of the Form/Collection:* Census of Tribal Justice Agencies.

(3) *The Agency Form Number, if any, and the Applicable Component of the Department Sponsoring the Collection:* The form number is CTJA01, Bureau of Justice Statistics, United States Department of Justice.

(4) *Affected Public who will be asked or Required to Respond, as well as a Brief Abstract:* Primary: Tribal Government.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond/Reply:* It is estimated that 556 respondents will complete a 20 minute survey for CTJA01.

(6) *An Estimate of the Total Public Burden (in hours) Associated with the Collection:* The total hour burden to complete the survey is 185 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place Building, 1331 Pennsylvania, NW, Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: May 25, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 01–13670 Filed 5–30–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request; Deaths In Custody, 2001

ACTION: Notice of information collection under review; revision of a currently approved collection.

The Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 30, 2001.

If you have additional comments, suggestions, or additional information, especially regarding the estimated public burden and associated response time, please write to Lawrence A. Greenfeld, Acting Director, Bureau of Justice Statistics, 810 Seventh St. NW, Washington, DC 20531. If you need a copy of the collection instruments with instructions, or have additional information, please contact Christopher Mumola at (202) 307–5995, or via facsimile at 202–514–1757. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(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 the agency's estimate of the burden of the collection of information, 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection.* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Deaths In Custody, 2000—

Quarterly Summary of Inmate Deaths in State Prison;

State Prison Inmate Death Report;

Quarterly Summary of Deaths in State Juvenile Residential Facilities;

State Juvenile Residential Death Report

Quarterly Report on Inmates Under Jail Jurisdiction;

Annual Summary on Inmates Under Jail Jurisdiction;

Quarterly Report on Inmates in Private and Multi-Jurisdiction Jails;

Annual Summary on Inmates in Private and Multi-Jurisdiction Jails.

(3) *The Agency Form Number and the Applicable Component of the Department Sponsoring the Collection.* Forms: NPS–4, NPS–4A, NPS–5, NPS–5A, CJ–9, CJ–9A, CJ–10 and CJ–10A. Corrections Statistics Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected Public who will be asked to Respond, as well as a Brief Abstract:*

Primary: Local jail administrators, (one reporter from each of the 3,083 local jail jurisdictions in the United States), State prison administrators (one reporter from each of the 50 States and the District of Columbia) and State juvenile correctional administrators (one reporter from each of the 50 States and the District of Columbia) responsible for keeping records on inmates will be asked to provide information for the following categories: (a) During each reporting quarter, the number of deaths of persons in their custody; and

(b) As of January 1 and December 31 of each reporting year, the number of male and female inmates in their custody (local jails only); and

(c) Between January 1 and December 31 of each reporting year, the number of male and female inmates admitted to their custody (local jails only); and

(d) The name, date of birth, gender, race/ethnic origin, and date of death for each inmate who died in their custody during each reporting quarter; and

(e) The admission date, legal status, and current offenses for each inmate who died in their custody during the reporting quarter; and

(f) Whether or not an autopsy was conducted by a medical examiner or coroner to determine the cause of each inmate death that took place in their custody during the reporting quarter; and

(g) The location and cause of each inmate death that took place in their custody during the reporting quarter; and

(h) In cases where the cause of death was illness/natural causes (including AIDS), whether or not the cause of each inmate death was the result of a pre-existing medical condition, and whether or not the inmate had been receiving treatment for that medical condition; and

(i) In cases where the cause of death was accidental injury, suicide, or homicide, when and where the incident causing the inmate's death took place.

As part of the conference agreement for FY2000 appropriations, the Bureau of Justice Statistics was directed by the U.S. Congress ''to implement a voluntary annual reporting system of all deaths occurring in law enforcement custody.'' BJS received OMB approval to conduct such an annual collection (OMB No. 1121–0249). In the time since submitting that collection for OMB approval, the President signed The Deaths in Custody Act of 2000 into law (PL 106–297). To comply with PL 106–297's new requirement for a quarterly collection of inmate death data from local jails, State prisons, juvenile facilities and police custody, BJS is now submitting for clearance the following series of forms: NPS–4, NPS–4A, NPS–5, NPS–5A, CJ–9, CJ–9A, CJ–10, and CJ–10A.

This collection will supplement the annual data on prison inmate deaths which the Bureau of Justice Statistics already collects as part of the National Prisoners Statistics program and the National Corrections Reporting Program. The Bureau of Justice Statistics will use this new information to publish an annual report on deaths in custody. The report will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics and data.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Needed for an Average Respondent To Respond Is Broken Down as Follows:*

The total number of respondents for this information collection is 3,185 and the time per survey is as follows:

Local jails/quarterly—3,083 respondents (average response time = 5 minutes + 30 minutes per reported death)

Local jails/annual—3,083 respondents (average response time = 15 minutes)

State prisons/quarterly—51 respondents (average response time = 5 minutes)

State prisons/quarterly addendum/quarterly—51 respondents average response time = 30 minutes per reported death)

State juvenile corrections/quarterly—51 respondents (average response time = 5 minutes)

State juvenile corrections addendum/quarterly—51 respondents (average response time = 30 minutes per reported death)

(6) *An Estimate of the Total Public Burden (in hours) Associated With the Collection:* 3,802 annual burden hours.

If additional information is required, contact: Mrs. Brenda E, Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place, Suite 1220, 1331 Pennsylvania Avenue, NW Washington, DC 20530.

Dated: May 24, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 01–13671 Filed 5–30–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 15, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ESA, and PWBA contact Marlene Howze ((202) 219–8904 or email to *Howze-Marlene@dol.gov).* To obtain documentation for ETA, MSHA, OSHA, and VETS contact Darrin King ((202) 693–4129 or by E-Mail to *King-Darrin@dol.gov*).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: Report on Occupational Employment.

OMB Number: 1220–0042.

Affected Public: Business or other for-profit; not-for-profit institutions; and State, Local or Tribal Government.

Frequency: Annually.

Number of Respondents: 317,492.

Number of Annual Responses: 317,492.

Estimated Time Per Response: 45 minutes.

Total Burden Hours: 238,119.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Occupational Employment Statistics (OES) survey is a Federal/State establishment survey of wage and salary workers designed to produce data on current occupational employment and wages. OES survey data assists in the development of employment and training programs established by the Workforce Investment Act (WIA) of 1998. The WIA replaced the Job Training Partnership Act (JTPA) of 1982, and the Perkins Vocational Education Act of 1984.

WIA mandates that the Secretary of Labor shall oversee the development, maintenance, and continuous improvement of a nationwide employment statistics system of employment statistics that include—''(A) statistical data from cooperative statistical survey projection programs and data from administrative reporting system that, taken together, enumerate, estimate, and project employment opportunities and conditions at national, State and local levels in a timely manner, including statistics on—(ii) industrial distribution of occupations, as well as current and projected employment opportunities, wages, benefits (where data is available), and skill trends by occupation and industry, with particular attention paid to State and local conditions;''

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 01–13613 Filed 5–30–01; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Employment and Training Administration

Trade Adjustment Assistance Program; Designation of Certifying Officers

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of designation of certifying officers.

SUMMARY: The trade adjustment assistance program operates under the Trade Act of 1974 to furnish program benefits to domestic workers adversely affected in their employment by imports of articles which are like or are directly competitive with articles produced by the firm employing the workers. The North American Free Trade Agreement-Transitional Adjustment Assistance amended the Trade Act of 1974 to provide assistance to workers impacted by a shift in production from the workers' firm to Mexico or Canada, or increased company or customer imports from Mexico or Canada of articles like or directly competitive with those produced by the workers' firm. Workers become eligible for program benefits only if the worker group is certified under the Act as eligible to apply for adjustment assistance. From time to time the agency issues an Order designating officials of the agency authorized to act as certifying officers. Employment and Training Order No. 1–01, was issued to revise the listing of officials designated as certifying officers, superseding the previous Order. Employment and Training Order No. 1–01, is published below.

Signed at Washington, DC, this 10th day of May 2001.

Raymond J. Uhalde,

Deputy Assistant Secretary of Labor, Employment and Training Administration.

BILLING CODE 4510–30–M

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION TAA
	CORRESPONDENCE SYMBOL OAS
	DATE February 14, 2001

DIRECTIVE : EMPLOYMENT AND TRAINING ORDER NO.1-01

TO: : NATIONAL AND REGIONAL OFFICES

FROM : RAYMOND J. UHALDE
Deputy Assistant Secretary of Labor
for Employment and Training

SUBJECT : Trade Adjustment Assistance Program (Trade Act of 1974) -- Designation of Certifying Officers

1. Purpose. To designate certifying officers to carry out functions required for the worker adjustment assistance programs under the Trade Act of 1974, as amended, the 1993 North American Free Trade Agreement Implementation Act, and the certification regulations in the Code of Federal Regulations at Title 29, Part 90.

2. Directives Affected. Employment and Training Order No. 1-94, August 29, 1994 (59 FR 46671 (September 9, 1994)), is superseded.

3. Background. Persons designated as certifying officers are vested with certain authority and assigned responsibilities under the Trade Act of 1974, as amended, the 1993 North American Free Trade Agreement Implementation Act, and 29 CFR Part 90. Such authority and responsibilities particularly include making determinations and issuing certifications with respect to the eligibility of groups of workers to apply for adjustment assistance under the Act and the program benefit regulations at 20 CFR Part 617. The operating instructions for the transitional adjustment assistance provisions of North American Free Trade Agreement Implementation Act are contained in General Administration Letter (GAL) 7-94 and changes 1, 2, and 3. The Secretary of Labor's Order 3-81, June 1, 1981 (46 FR 31117 (June 12, 1981))--

> delegated authority and assigned responsibility to the Assistant Secretary for Employment and Training for coordinating, monitoring, and insuring that the functions of the Secretary of Labor under the Trade Act of 1974, are carried out, including but not limited to . . . [d]eveloping and promulgating program performance standards relating to the conduct of certification investigations, public hearings, issuance of notice of certification

RESCISSIONS	EXPIRATION DATE
ETO 1-94	Continuing

> decisions, delivery of program benefits, and other processes involved in the administration of the trade adjustment assistance program * * * [and] [d]etermining eligibility of groups of workers to apply for adjustment assistance * * *.

4. Designation of Officials. By virtue of the authority vested in me by the Secretary's Order 3-81, the following officials of the Employment and Training Administration, United States Department of Labor, are hereby designated as certifying officers for the trade adjustment assistance programs.

> a. Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, or in the absence of the Director, any person designated by the Assistant Secretary to act on the Director's behalf.
>
> b. Linda G. Poole, Program Analyst, Division of Trade Adjustment Assistance
>
> c. Curtis K. Kooser, Program Analyst, Division of Trade Adjustment Assistance

The foregoing designated certifying officers are delegated authority and assigned responsibility, subject to the general direction and control of the Assistant Secretary and Deputy Assistant Secretaries of the Employment and Training Administration and Managers of the Division of Trade Adjustment Assistance, to carry out the duties and functions of certifying officers under the Trade Act of 1974, as amended, and 29 CFR Part 90.

5. Effective Date: This Order is effective on date of issuance.

[FR Doc. 01–13614 Filed 5–30–01; 8:45 am]
BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0179(2001)]

Methylene Chloride Standard (29 CFR 1910.1052); Extension of the Office of Management and Budget's (OMB) Approval of the Information-Collection (Paperwork) Requirements

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

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning its request to extend OMB approval of the collection-of-information requirements specified by the Methylene Chloride Standard (29 CFR 1910.1052).

DATES: Submit written comments on or before July 30, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0179(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Policy, OSHA, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified in the Methylene Chloride Standard is available for inspection and copying in the docket Office or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at http://www.osha.gov/comp-links.html, and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

The information-collection requirements specified in the methylene chloride (MC) Standard protect employees from the adverse health effects that may result from exposure to MC. In terms of burden-hour estimates, the major information-collection requirements in the MC Standard include employee exposure monitoring, notifying employees of their MC exposures, administering medical examinations to employees, providing examining physicians with specific program and employee information, ensuring that employees receive a copy of their medical-examination results, maintaining employees' exposure-monitoring and medical-examination records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected employees, and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is requesting to extend OMB approval of the collection-of-information requirements in the MC Standard. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of this information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Methylene Chloride.

OMB Number: 1218–0179.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal governments.

Number of Respondents: 92,000.

Frequency of Response: Occasionally.

Average Time Per Response: Varies from 1 hour for administering a medical examination to 5 minutes to maintain an employee's medical or exposure record.

Estimated Total Burden Hours: 524,615 hours.

Estimated Cost (Operation and Maintenance): $46,248,000.

IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order 3–2000 (65 FR 50017).

Signed at Washington, DC on May 24, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13648 Filed 5–30–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0206(2001)]

Standard on Grain Handling Facilities; Extension of the Office of Management and Budget's (OMB) Approval of an Information-Collection (Paperwork) Requirements

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

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed extension of the information-collection requirements contained in the Standard on Grain Handling Facilities, 29 CFR 1910.272.

DATES: Submit written comments on or before July 30, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0206(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S.

Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections contained in the Standard on Grain Handling Facilities is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202) 693–2222 or Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at http://www.osha.gov/comp-links.html and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

1. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The following table describes the paperwork requirements specified for employers by the Standard on Grain Handling Facilities (§ 1910.272; the ''Standard''), as well as the safety and health purpose served by each of these requirements.

Paragraph	Paperwork requirement	Safety and health purpose
(d)	Develop and implement an emergency-action plan	Provides employees with information regarding the appropriate actions to take in an emergency.
(e)(1)	Provide employee training at least annually and after a job reassignment that exposes an employee to new hazards.	Ensures that employees can identify and control the hazards associated with their job tasks and work areas, especially ignition sources for fire or explosions involving accumulations of fugitive grain dust.
(f)(1), (f)(2)	Issue a written permit for hot work certifying that the employer implemented the requirements of § 1910.252(a) prior to beginning hot-work operations; maintain the certificate until completing the hot-work operation.	To alert the employer to take appropriate safety precautions before activating an ignition source, thereby preventing ignition of accumulated fugitive grain dust.
(g)(1)(i)	Issue a permit before an employee enters a bin, silo, or tank unless the employer or employer's representative is present during the entire entry operation. The permit must certify that the employer implemented the precautions specified in § 1910.272(g) prior to beginning the entry operation. Maintain the permit until completing the entry operation.	To alert the employer and other employees of a planned entry into a grain-storage structure so they can take the actions necessary to control hazards in the structure; these actions include deactivating equipment that could impact, crush, electrocute, or suffocate (e.g., through grain release) the employee who is entering the structure.
(g)(1)(ii)	Deenergize and then disconnect, lockout and tag, block off, or use another equally effective means or method to prevent the operation of mechanical, electrical, hydraulic, or pneumatic equipment that present a danger to employees inside a grain-storage structure.	Tags inform the employer and other employees that they must not reactivate the tagged equipment, thereby preventing death or serious injury that may occur to the employee who is working inside the grain-storage structure.
(i)(1), (i)(2)	Inform contractors performing work at a grain-handling facility of known potential fire and explosion hazards related to the contractor's work and work area, and the applicable safety rules of the facility and provisions of the emergency-action plan.	Allows contractors and their employees to identify and control fire and explosion hazards associated with their job tasks and work areas, and provides them with information regarding the appropriate actions to take in an emergency.
(j)(1)	Develop and implement a written housekeeping program that establishes the frequency and method(s) determined to best reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other surfaces exposed to the dust.	Prevents the fire and explosion hazards that result from excessive accumulations of fugitive grain dust.
(m)(1)	Implement preventive maintenance procedures addressing: Regularly scheduled inspections of mechanical and safety-control equipment associated with dryers, grain-stream processing equipment, dust-collection equipment (including filter collectors), and bucket elevators; and lubrication and necessary and appropriate maintenance.	Controls the release of sparks and other ignition products from equipment used to process grain, thereby preventing ignition of accumulated fugitive grain dust.
(m)(3)	Provide and maintain written certification of each inspection, including the date of the inspection, the individual who conducted the inspection, and the identifier for each piece of equipment inspected.	Identifies malfunctioning equipment that requires repair and maintenance; it also provides both employers and employees with assurance that equipment used in grain-handling operations is in safe working order and will not serve as an ignition source.
(m)(4)	Implement lockout-tagout procedures to prevent inadvertent application of energy or motion to equipment that an employee is repairing, servicing, or adjusting.	Using standardized and safe procedures ensures proper deactivation and reactivation of grain-handling equipment while an employee is working on it, thereby preventing death or serious injury to the employee.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

• Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;

• The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;

• The quality, utility, and clarity of the information collected; and

• Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is requesting to extend OMB approval of the collection-of-information requirements specified by the Standard. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Grain Handling Facilities.

OMB Number: 1218–0206.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal governments.

Number of Respondents: 23,770.

Frequency of Response: Monthly; annually.

Average Time per Response: Varies from 2 minutes (.03 hours) to affix a tag to deenergized equipment to 1 hour to revise and emergency-action plan, housekeeping program, or lockout-tagout procedures.

Estimated Total Burden Hours: 136,781.

Estimated Cost (Operation and Maintenance): None.

IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC, on May 25, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13688 Filed 5–30–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0137(2001)]

''Excavations''; Extension of the Office of Management of Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

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

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning its request to decrease the existing burden-hour estimates for, and to extend OMB approval of, the collection-of-information requirements specified by 29 CFR 1926, subpart P (''Excavations''). This subpart specifies several requirements for designing protective systems (*i.e.,* sloping, benching, support, and shield systems) that prevent cave-ins during excavation work.

DATES: Submit written comments on or before July 30, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0137(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Martinez, Directorate of Policy, Office of Regulatory Analysis, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1953. A copy of the Agency's Information-Collection Request (''ICR'') supporting the need for the information collections specified by 29 CFR 1926, subpart P is available for inspection and copying in the Docket Office or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at http://www.osha.gov/comp-links.html and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). this program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Paragraphs (b) and (c) of § 1926.652 (''Requirements for Protective Systems''; the ''Standard'') contain the only paperwork requirements in 29 CFR 1926, subpart P that impose burden hours or costs on employers as specified by PRA–95.[1] These paragraphs require employers to use protective systems to prevent cave-ins during excavation work; these systems include sloping the side of the trench, benching the soil away from the excavation, or using a support system or shield (such as a trench box). The Standard specifies allowable configurations and slopes for excavations, and provides appendices to assist employers in designing protective systems. However, paragraphs (b)(3) and (b)(4) of the Standard permit employers to design sloping or benching systems based on tabulated data (Option 1), or to use a design approved by a registered professional engineer (Option 2).

Under Option 1, employers must provide the tabulated data in a written form that also identifies the registered professional engineer who approved the data and the parameters used to select the sloping or benching system drawn from the data, as well as the limitations of the data (including the magnitude and configuration of slopes determined to be safe); the document must also provide any explanatory information necessary to select the correct sloping or benching system based on the data. Option 2 requires employers to develop a written design approved by a registered professional engineer. The design information must include the magnitude and configuration of the slopes determined to be safe, and the identity of the registered professional engineer who approved the design.

Paragraphs (c)(2), (c)(3), and (c)(4) allow employers to design support

[1] Paragraph (b)(2) of § 1926.651 (''Specific Excavation Requirements'') requires that employers, before excavating, request local utility companies to locate underground utility installations. However, the agency considers such a request to be a usual and customary business practice and, therefore, excluded from coverage under PRA–95.

systems, shield systems, and other protective systems based on tabulated data provided by a system manufacturer (Option 3) or obtained from other sources and approved by a registered professional engineer (Option 4); they can also use a design approved by a registered professional engineer (Option 5). If they select Option 3, employers must complete a written form that provides the manufacturer's specifications, recommendations, and limitations, as well as any deviations approved by the manufacturer. The paperwork requirements of Option 4 are the same as Option 1. Option 5 requires a written form that provides a plan indicating the sizes, types, and configurations of the materials used in the protective system and the identity of the registered professional engineer who approved the design.

Each of these provisions requires employers to maintain a copy of the documents described in these options at the jobsite during construction. After construction is complete, employers may store the documents offsite provided they make them available to an OSHA compliance officer on request. These documents provide both the employer and the compliance officer with information needed to determine if the selection and design of a protection system are appropriate to the excavation work, thereby assuring employees of maximum protection against cave-ins.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is requesting a decrease in the existing burden-hour estimate for, as well as an extension of OMB approval of, the collection-of-information requirements specified by the Standard. Accordingly, the Agency is requesting to decrease the current burden-hour estimate from 20,080 hours to 20,011 hours, a total reduction of 69 hours. This reduction occurred because OSHA decreased the estimated number of inspections that it will conduct during each year covered by the ICR. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend its approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Excavations.

OMB Number: 1218–0137.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal governments.

Number of Respondents: 10,000.

Frequency of Response: Occasionally.

Average Time per Response: 2 hours to obtain design information.

Estimated Total Burden Hours: 20,011.

Estimated Cost (Operation and Maintenance): $405,563.

IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on May 25, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13689 Filed 5–30–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0207(2001)]

Welding, Cutting and Brazing; Extension of the Office of Management and Budget's (OMB) Aproval of Information-Collection (Paperwork) Requirements

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

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning its request to decrease the existing burden-hour estimates for, and to extend OMB approval of, the collection-of-information requirements of 29 CFR 1910, Subpart Q (''Welding, Cutting and Brazing''). This subpart regulates the safety of employees who operate electric or gas welding and cutting equipment.

DATES: Submit written comments on or before July 30, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0027–(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections contained in 29 CFR 1910, subpart Q (''Welding, Cutting and Brazing'') is available for inspection and copying in the Docket Office or by requesting a copy from Theda Kenney at (202) 693–2222 or Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at http://www.osha.gov/comp-links.html, and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

After thoroughly reviewing the five standards in 29 CFR 1910, subpart Q (hereafter, ''subpart Q''), OSHA identified a number of paperwork requirements; however, it determined that most of these requirements impose no burden hours or costs on

respondents as specified by PRA–95. In the following table, the Agency lists these requirements and the rationale for excluding them from the provisions of PRA–95 regulating burden-hour and cost determinations.

Paragraphs	Paperwork requirement	Rationale for exclusion
§ 1910.252 (''General Requirements''):		
(a)(2)(iii)(B)	Train fire watchers to use fire extinguishers ...	This training is performance-oriented and not subject to PRA–95.
(a)(2)(xiii)(C)	Train cutters and welders and their supervisors in the safe operation of their equipment and the safe use of the process.	This training is performance-oriented and not subject to PRA–95.
(a)(2)(xiii)(D)	Advise contractors about flammable and hazardous conditions.	This requirement was a usual and customary business practice before OSHA adopted the standard.
(a)(2)(xiv)(D)	Secure authorization for cutting and welding operations from the designated management representative.	This requirement was a usual and customary business practice prior to publication of the standard.
(c)(1)(iv)(A)–(c)(1)(iv)(C)	Use caution or warning labels	The regulatory text provides the specific language for the labels.
(b)(2)(ii)(G)	Permanently and distinctively mark welding lenses so that the source and shade are readily identifiable.	Manufacturers and suppliers provide this service as a usual and customary business practice.
§ 1910.253 (''Oxygen-Fuel Gas Welding and Cutting''):		
(a)(4)	Instruct employees responsible for oxygen and fuel-gas supply equipment in this important work before they assume this responsibility.	This training is performance-oriented and not subject to PRA–95.
(a)(4)	Make readily available the rules and instructions covering the operation and maintenance of oxygen and fuel-gas supply equipment.	This requirement was a usual and customary business practice before OSHA adopted the standard.
(b)(1)(ii)	Mark compressed-gas cylinders to identify their gas contents.	Manufacturers and suppliers provide this service as a usual and customary business practice.
(b)(5)(iii)(G), (c)(3)(v), (d)(4)(ii), (d)(4)(iii), (e)(6)(iii), (f)(1)(i), and (g)(1)(ii).	Provide warning tags on leaking cylinders; post a sign at the manifold; mark aboveground piping systems; mark station outlets with name of gas; mark gages on oxygen regulators; mark generators with specified information; and mark packages containing calcium carbide.	The regulatory text provides the specific language for the labels.
(f)(7)(i)(A)	Post operating instructions in a conspicuous place near the generator or make them readily available in a suitable location.	This requirement was a usual and customary business practice before OSHA adopted the standard.
§ 1910.254 (''Arc Welding and Cutting''):		
(b)(4)(iv)	Mark as grounded any dedicated welding lead terminal connected to a grounded enclosure.	Manufacturers and suppliers provide this service as a usual and customary business practice.

During its review of subpart Q, the Agency found one paperwork requirement needing OMB approval. Accordingly, paragraph (e) of § 1910.255 (''Resistance Welding'') specifies that employers must have qualified maintenance personnel inspect resistance welding equipment periodically, and develop and maintain a written certification record of each inspection. The record must include the date of the inspection, the signature of the individual who performed the inspection, and the serial number or other identifier of the equipment inspected. Developing and maintaining a certification record notifies mechanics of servicing or repair problems. In addition, employers can review the records to ensure that mechanics performed the necessary repairs and maintenance. The certification records also provide the most efficient means for an OSHA compliance officer to determine that an employer performed the required inspections and that the equipment is safe. Accordingly, by using equipment that is in safe operating condition, employers will prevent serious injury and death to the equipment operators and other employees who may be working near the equipment.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is requesting a decrease in the existing burden-hour estimate for, as well as an extension of OMB approval of, the collection-of-information requirements specified by subpart Q. Accordingly, the Agency is requesting to decrease the current burden-hour estimate from 380,178 hours to 8,119

hours, a total reduction of 372,059 hours. This reduction occurred because OSHA is removing the burden hours previously attributed to the training requirement specified in § 1918.252(a)(2)(xiii)(C); this training is performance-oriented and, therefore, not subject to PRA–95. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collected requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Welding, Cutting and Brazing.

OMB Number: 1218–0207.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal governments.

Number of Respondents: 25,373.

Frequency of Response: Semi-annually.

Average Time per Response: Varies from 2 minutes (.03 hour) to develop an inspection record to 5 minutes (.08 hour) to perform an inspection.

Estimated Total Burden Hours: 8,119.

Estimated (Cost and Maintenance): None.

IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on May 25, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13690 Filed 5–30–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0095(2001)]

Concrete and Masonry Construction; Extension of the Office of Management of Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

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

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning its request to decrease the existing burden-hour estimates for, and to extend OMB approval of, the collection-of-information requirements of 29 CFR 1926, subpart Q (''Concrete and Masonry Construction''). After a thorough review of the paperwork requirements specified by this subpart, the Agency determined that none of them results in burden hours or costs as specified by the Paperwork Reduction Act of 1995.

DATES: Submit written comments on or before July 30, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0095(2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Martinez, Directorate of Policy, Office of Regulatory Analysis, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1953. A copy of the Agency's Information-Collection Request (''ICR'') describing the information collections specified by 29 CFR 1926, subpart Q is available for inspection and copying in the Docket Office or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at http://www.osha.gov/comp-links.html and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

After a thorough review of the seven standards in 29 CFR 1926, subpart Q (hereafter, ''Subpart''), OSHA identified a number of paperwork requirements; however, it determined that none of these requirements impose burden hours or costs on respondents as specified by PRA–95. These requirements, and the rationale for excluding them from the provisions of PRA–95 regulating burden-hour and cost determinations, are:

- The warning signs specified for post-tensioning areas by paragraph (c)(2) of § 1926.701 (''General Requirements''), and the requirements to lock-out and tag-out ejection systems and other hazardous equipment mandated by paragraphs (a)(2), (j)(1), and (j)(2), of § 1926.702 (''Requirements for Equipment and Tools''), because paragraphs § 1926.701(c)(2) and § 1926.702(a)(2) imply the wording for the required warning signs and ejection-system tags, while paragraph § 1926.702(j)(2) provides the exact wording for the hazardous-equipment tags;
- Paragraph (a)(2) of § 1926.703 (''Requirements for Cast-in-Place Concrete''), which requires employers to make available at the jobsite drawings or plans for the jack layout, formwork (including shoring equipment), working decks, and scaffolds, as well as revisions to these documents, because having these drawings or plans available at the jobsite is a usual and customary business practice;
- Provisions in § 1926.703 addressing shoring design (paragraph (b)(8)(i)) and formwork-removal plans (paragraph (e)(1)(i)) because these provisions are part of the general design-and-planning requirement of paragraph (a)(2);
- The designs and plans specified by paragraph (a) of § 1926.705 (''Requirements for Lift-Slab Construction Operations'') because employers develop and use these documents as a usual and customary business practice; and
- Marking the rated capacity of jacks and lifting units as required by § 1926.703 because the manufacturers and suppliers of this equipment provide this service as a usual and customary practice.

The warning-signs required by paragraph § 1926.701(c)(2) reduce exposure of nonessential employees to the hazards of post-tensioning operations, principally a failed rope or wire that could strike an employee and cause serious injury. The requirements to lock-out and tag-out ejection systems and other hazardous equipment (*e.g.,* compressors, mixers, screens or pumps used for concrete and masonry construction) specified by paragraphs § 1926.702(a)(2), (j)(1), and (j)(2) warn equipment operators not to activate their equipment if another employee enters the equipment to perform a task (*e.g.,* cleaning, inspecting maintenance, repairing), thereby preventing serious injury or death.

Construction contractors and employees use the drawings, plans, and designs required by § 1926.703(a)(2), (b)(8)(i), and (e)(1)(i) to provide specific instructions on how to construct, erect, brace, maintain, and remove shores and formwork if they pour concrete at the jobsite. Similarly, the designs and plans specified by § 1926.705(a) identify methods for assembling and stabilizing lift slabs during construction. These requirements assure the structural stability and integrity of the formwork and lift slabs, which prevents employee injury and death that may result from the collapse of the formwork or lift slabs. In addition, OSHA compliance officers review the required paperwork to determine if the formwork and lift slabs comply with the specifications and instructions contained in these documents.

Section 1926.705(b) requires employers to mark the rated capacity of jacks and lifting units. This requirement prevents overloading and subsequent collapse of jacks and lifting units, as well as their loads, thereby sparing exposed employees from serious injury and death.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and-transmission techniques.

III. Proposed Actions

OSHA is requesting a decrease in the existing burden-hour estimate for, as well as an extension of OMB approval of, the collection-of-information requirements specified by the Subpart. Accordingly, the Agency is requesting to decrease the current burden hour estimate from 7,787 hours to 0 hours, a total reduction of 7,787 hours. The Agency justifies this reduction based on its conclusion that the paperwork requirements found in this Subpart do not impose respondent burden hours or costs as specified by PRA–95. OSHA is requesting to extend OMB's previous approval of the recordkeeping (paperwork) requirements specified by the Subpart. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend its approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Concrete and Masonry Construction.

OMB Number: 1218–0095.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal governments.

Number of Respondents: None.

Frequency of Response: None.

Average Time per Response: None.

Estimated Total Burden Hours: None.

Estimated Cost (Operation and Maintenance): None.

IV. Authority and Signature

R. Davis Layne, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on May 25, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–13691 Filed 5–30–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Veterans' Employment and Training Service (VETS)

Agency Information Activities; Proposed Measures; Comments Request; Performance Measures

AGENCY: Veterans' Employment and Training Service, Labor.

ACTION: Notice and request for comments.

SUMMARY: By law, the Assistant Secretary for Veterans' Employment and Training (ASVET) is required to establish performance standards for the provision of services to veterans by State Employment Security Agencies (SESA's). The ASVET in turn, is required to report on these results in the Veterans' Employment and Training Service's (VETS) Annual Report to Congress. This notice requests comments and opinions on the applicability of a proposed means to measure the performance outcomes of the Public Labor Exchange, which provides services to veterans within local workforce investment areas. In response to General Accounting Office recommendations, VETS is moving from process performance measures to outcome measures, and to evaluation of results based on absolute terms rather than the current relative terms. The new measures will provide useful information on the effectiveness of services provided to veterans. These proposed performance measures will also be key components of VETS' five-year Strategic Plan and Annual Performance Plans for the management of services provided to veterans and disabled veterans through the Public Labor Exchange, which includes services provided by Local Veterans' Employment Representative (LVER) and Disabled Veterans' Outreach Program (DVOP) staff.

In addition to Public Labor Exchange employees assigned to the Local Employment Service Offices (LESO) or One-Stop Centers established in the States, DVOP and LVER positions are provided to the States to enhance, not supplant, services provided to veterans by Wagner-Peyser staff.

DATES: To be assured of consideration, comments on these proposed performance measures must be received on or before July 30, 2001.

ADDRESSES: Comments should be sent to Robert Wilson, Chief, Division of Employment and Training Programs, Veterans' Employment and Training Service, U.S. Department of Labor, 200 Constitution Avenue NW, Room S–1316, Washington, DC 20210, Facsimile: 202–693–4755, E-mail: Wilson-Robert@dol.gov. Receipt of submissions, whether by U.S. mail, e-mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received by telephoning VETS at (202) 693–4719 (VOICE) or (800) 670–7008 (TTY/TDD).

FOR FURTHER INFORMATION: Contact Robert Wilson, 202–693–4719, or E-mail: Wilson-Robert@dol.gov. (Please note the above telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION:

I. Authority

Components of the VETS' performance measures are proposed under the authority of Title 38 United States Code (U.S.C.) section 4107(b), which requires that performance standards be established to assure that SESA's are providing maximum employment and training opportunities to eligible veterans and are in

compliance with Chapters 41 and 42 of Title 38, U.S.C. The proposed performance measures are separate from the reporting requirements of Section 4107 (c) of Title 38, U.S.C., and they do not replace these reporting requirements. Section 4212 of Title 38, U.S.C. requires entities awarded Federal contracts or subcontracts of $25,000 or more to take affirmative action to employ and advance in employment qualified Special Disabled Veterans, Vietnam-era Veterans, Recently Separated Veterans (Pub. L. 106–419 added Recently Separated Veterans to the class of veterans receiving emphasis under Federal Contracts), and Campaign Veterans (any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge or expeditionary medal has been authorized). Federal contractors and subcontractors are required by law and regulation to list job openings with their local SESA office. The SESA's, through the Public Labor Exchange system, are required to provide priority referrals of qualified targeted veterans to these Federal contractor openings.

II. VETS Performance Measures

The proposed set of four (4) measures are consistent with the VETS Strategic Plan and Annual Plan, the Workforce Investment Act (WIA) of 1998, Title 38 U.S.C. and the requirements of the Government Performance and Results Act (GPRA) of 1993. Two (2) of the proposed measures are similar to the performance measures for the Public Labor Exchange, as proposed in the August 14, 2000 **Federal Register** Notice, 65 Fed. Reg. 49707 (August 14, 2000). VETS will make every effort to maintain consistency with the Labor Exchange Performance Measures to be implemented by the Employment and Training Administration (ETA).

A. Outcome and Process Performance Measures

VETS is proposing the following annual Program Year (PY) based veterans' performance measures:

- Veteran Job Seeker Entered Employment Rate (VJSEER)
- Veteran Job Seeker Employment Retention Rate at Six Months (VJSERR)
- Veterans' Employment Rate Following Receipt of Staff Assisted Services (VERS)
- Federal Contractor Job Openings Listed with the Public Labor Exchange (FCJL)

1. Identification and Selection of Outcome and Process Performance Measures

In 1996, the ASVET directed VETS staff to work with State partners to provide input regarding the development, testing, and evaluation of new performance systems to replace the current performance measures system, which had been developed more than a decade before with little or no change since then. There is concern that these performance standards are activity- and volume-driven, and that the current performance measures do not provide the most useful information on the impact of services on veterans served. As a result, from September 1998 through December 1999, VETS conducted a study to review current performance measurements for the Public Labor Exchange and DVOP/LVER programs. Based on this research, VETS developed two types of proposed performance measures. The first category was comprised of outcome measures that can be applied at the National, State, and local areas, and that can be adjusted for labor market and other characteristics within the State and local area. These measures, which were intended to measure outcomes rather than processes were: Entered Employment Rate, Employment Rate, Employment Retention at Six Months, and Earnings Gain. The second category addressed processes and these measures were: Employment Rate Following Receipt of Staff Assisted Services by Wagner-Peyser Staff, and Entered Employment Following Referral to a Federal Contractor.

During July through September 2000, VETS conducted a test of the proposed performance measures in six (6) States to determine if data could be collected using Unemployment Insurance (UI) wage records. VETS obtained contractor support to provide technical assistance for the beta test by conducting site visits and facilitating the matching of registration data to wage record data, which was provided by the participating State agencies. Interviews were conducted with WIA, State UI, State Employment Service (ES), and State Information Systems staff to obtain information on data collection and any cost problems associated with using UI wage records, difficulties in calculating the measures or using the data sets, and opinions concerning the proposed measures. Contractor representatives did not participate in the process of making final recommendations.

All six (6) of the test States calculated Public Labor Exchange performance based on the following three (3) outcome measures: Entered Employment Rate, Earnings Gain, and Employment Retention Rate at Six Months. For these three (3) outcome measures, the six (6) States matched registrant data for veterans to State UI wage record data for PY's 1997 and 1998. Four (4) States calculated a fourth outcome measure, Employment Rate, also utilizing the registrant data for veterans, and State UI wage record data for PY's 1997 and 1998. Five (5) of the States also calculated the process measure, Employment Rate Following Receipt of Staff Assisted Services by Wagner-Peyser Staff.

Due to differences in the way States processed data on Earnings Gain, VETS determined that the measure would not provide valid outcome measurements, and thus, decided not to use Earnings Gain as a performance measure. Furthermore, beta test results indicated that sufficient data for the Entered Employment Rate Following Referral to a Federal Contractor were not available. Therefore, VETS decided that this process measure would be changed to the percent of increase in the number of Federal contractor job openings listed with the Public Labor Exchange. VETS has developed tools to improve the ability of the Public Labor Exchange system to identify job openings listed by Federal contractors. This will, in turn, increase the number of Federal contractor job listings reported by the Public Labor Exchange, as well as provide greater employment opportunities for targeted veterans.

After an in-depth analysis of the results of the beta test and comments from participating States, and in coordination with ETA, VETS is proposing to move forward with four (4) of the proposed outcome and process measures that have been shown to be most useful in measuring performance of the Public Labor Exchange system in the delivery of services to veterans.

2. Proposed VETS Performance Measures

VETS requests comments on the applicability of the four (4) proposed performance measures for the services to veterans implemented through the Public Labor Exchange system. Each of the proposed measures will be calculated and reported quarterly, with an annual PY summary. Listed below are the operational definitions for the proposed performance measures.

a. Veteran Job Seeker Entered Employment Rate (VJSEER). The proposed Veteran Job Seeker Entered Employment Rate is defined as: Of Wagner-Peyser Act funded labor exchange applicants who are veterans

and who in the first or second quarter following registration (Q_{+1} or Q_{+2}), earned wages from a new or different employer than that from which the applicant earned wages in the quarter prior to registration (Q_{-1}), divided by the number of applicants registered during the measurement period. Those applicants who earned wages in the first or second quarter following registration (Q_{+1} or Q_2), solely with the same employer from which wages were earned in the quarter prior to registration (Q_{-1}), are excluded from the measure.

b. Veteran Job Seeker Employment Retention Rate at Six Months (VJSERR). The proposed Veteran Job Seeker Employment Retention Rate at Six Months is defined as: Of those Wagner-Peyser Act labor exchange applicants age 19 and older at the time of registration who are veterans, and who in the first or second quarter following registration (Q_{+1} or Q_{+2}), earned wages from a new or different employer than that from which the applicant earned wages in the quarter prior to registration (Q_{-1}); those who also continue to earn wages in the third or fourth quarter (Q_{+3} or Q_{+4}) respectively, following registration, divided by the number who earned wages in the first or second quarter after registration (Q_{+1}) or (Q_{+2}). The examples of situations that result in a positive outcome are: One (1), a veteran earning wages in quarter Q_{+1} from a new or different employer than in quarter Q_{-1}, must at a minimum also earn wages in Q_{+3}; Two (2), a veteran earning wages in Q_{+2} from a new or different employer than in Q_{-1}, must at a minimum also earn wages in quarter Q_{+4}.

c. Veterans' Employment Rate Following Receipt of Staff Assisted Services (VERS). The proposed Veterans' Employment Rate Following Receipt of Staff Assisted Services is defined as: Of the Wagner-Peyser Act applicants who are veterans, who registered in a quarter, Q_0, and who received some form of staff assisted labor exchange services from Public Labor Exchange staff, the number who are employed by the end of the first or second quarter after registration, (Q_{+1} or Q_{+2}).

The following chart presents the three preceding measures of service.

VETS PROPOSED MEASURES OF SERVICE FOR ALL VETERANS AND DISABLED VETERANS

Category	Measures of service [1]		
	VJSEER	VJSERR	VERS
All Veterans	X	X	X
Disabled Veteran	X	X	X

[1] All measures use two quarters of employment (wage record) followup data.

d. Federal Contractor Job Openings Listed with the Public Labor Exchange (FCJL). Federal Contractor Job Opening Listed with the Public Labor Exchange is defined as: The percentage increase in the number of Federal contractor job openings listed annually with the Public Labor Exchange, relative to the number listed in the previous PY.

Measurement and reporting of these four (4) measures are consistent with the requirements under Title 38 U.S.C., GPRA, the WIA, and Public Labor Exchange performance measures. Section 4107(c)(1) of Title 38 requires that the actual number of veterans who registered with the Public Labor Exchange and who entered employment, be reported by VETS to Congress annually, on a State by State basis. The two (2) outcome measures, Veteran Job Seeker Entered Employment Rate, and Veteran Job Seeker Employment Retention Rate at Six Months; and one (1) process measure, Veteran's Employment Rate Following Receipt of Staff Assisted Services, can be adjusted by State for the characteristics of the population, and for the condition of the labor market within the State. This adjustment provides for equitable performance measurement across States. There is no adjustment for the Federal Contractor Job Openings Listed with the Public Labor Exchange process measure.

To the extent feasible and appropriate, VETS plans to parallel its proposed measures for Veteran Job Seeker Entered Employment Rate, and Veteran Job Seeker Employment Retention Rate at Six Months, with the equivalent measures proposed by the ES. Currently, the calculations for these measures are based on a methodology comparable to that set forth in the August 14, 2000 **Federal Register** Notice, in which ETA proposed the Labor Exchange Performance Measurement System. This notice and request for comments incorporates the most recent revisions to the proposed ETA Labor Exchange Performance Measurement System. If there are any further revisions, VETS intends to modify its proposed Veteran Job Seeker Entered Employment Rate, and Veteran Job Seeker Employment Retention Rate measures to maximize consistency with the Public Labor Exchange Performance Measurement System.

B. Procedures for Establishing Expected Levels of Performance

VETS proposes to emulate the WIA, section 136, Performance Accountability System, and utilize their negotiation process to establish expected performance levels for Labor Exchange services. The use of this framework means that States, in conjunction with their VETS' Director of Veterans' Employment and Training (DVET), will develop baseline data for each of the measures based on historical data, analyze the baseline data, and propose performance levels for each measure based on that analysis. Each State will negotiate with its DVET to obtain mutually agreed upon expected levels of performance. In developing baseline data, States should use two years of data if possible, but not less than one year in determining trends for performance and factors which may influence performance. In establishing expected performance levels for each measure, factors beyond the control of the State, such as economic conditions, should be considered.

C. Baseline Performance

Baselines for each of the measures will be developed by each State and will be a key factor used to determine the expected level of performance that is negotiated with VETS. Baselines are intended to give an indication of the past outcomes of a performance measure. For performance negotiations to be data-driven and reality-based, the development of baselines is a critical aspect of the negotiation process.

D. State Expected Levels of Performance

When submitting their proposed performance levels, States should be prepared to provide support for their proposed levels by providing baseline performance data, the methodology for developing baseline data, and a description of data sources. In addition, States should also include information on appropriate factors used to project expected levels of performance. Examples of possible factors to consider in negotiating expected levels of performance are: Economic conditions such as the unemployment rate; the rate of job creation/loss, new business start-ups; community factors such as availability of transportation and daycare; pursuit of new or enhanced employer partnerships; natural disasters; State legislation; and other

factors which might impact performance. This list is not intended to be prescriptive or exhaustive, but rather to suggest the kind of information that might be considered in the negotiation process.

E. Negotiation of Expected Levels of Performance

The Regional Administrator for Veterans' Employment and Training (RAVET) will review the negotiated levels of performance as submitted through the DVET and will compare the expected performance levels with the National averages, baseline information from other States, and the negotiated levels of performance established for other States, taking into account factors including differences in economic conditions and other factors as discussed above. The RAVET will analyze the quality of the data presented by States, including the relevance of the data, the source of the data, the time period from which the data were drawn, and if the data are part of a trend or anomalous. Established GPRA Annual Performance Plan goals for relevant measures will also be an important part of the Regional review and negotiation of performance levels. When the RAVET's analysis is completed, if need be, there will be the opportunity, through the DVET, for negotiations with the State to obtain mutually agreed upon expected levels of performance. Provision will also be made for renegotiation of performance levels if circumstances arise that result in a significant change in the factors used to establish the original levels. It is understood that either a State or VETS may elect to renegotiate performance as new information becomes available. Factors which will be considered for making changes include those discussed above, in paragraph #D.

F. Rules for Application

During the first year of implementation of the new performance measures, performance will be reviewed as described below; however, States will be held harmless from any consequences of failing to meet their performance goals during that first year. Actual performance for each program year will be compared to negotiated performance levels. Incentives may be put in place for States with exemplary performance results. For a State to be designated as ''exemplary,'' expected levels of performance for all measures must be achieved or exceeded. A possible incentive will be that ''exemplary'' States would proportionally split a fixed amount of the grant allocation or any unspent funds. If a State's actual performance varies from the expected performance level by minus two percent or more, VETS will have the option of renegotiating new performance levels with the State. VETS will offer technical assistance as well as giving consideration to external factors affecting performance levels. A negative variation of five percent or more would result in the requirement of a State Corrective Action Plan (CAP) to rectify the situation. Failure to submit or comply with a CAP may become the basis for sanctions.

Signed at Washington, DC, this 25th day of May, 2001.

Stanley A. Seidel,

Director, Operations and Programs.

[FR Doc. 01–13666 Filed 5–30–01; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[01–065]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection provides data used in the Agency's accrual accounting and cost-based budgeting systems, maintained as required under Federal law.

DATES: All comments should be submitted on or before July 30, 2001.

ADDRESSES: All comments should be addressed to Mr. Phillip Smith, Code BFZ, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Contractor Financial Management Reports.

OMB Number: 2700–0003.

Type of review: Extension.

Need and Uses: The NASA Contractor Financial Management Reporting System is the basic financial medium for contractor reporting of estimated and incurred costs, providing essential data for projecting costs and hours to ensure that contractor performance is realistically planned and supported by dollar and labor resources. The data provided by these reports is an integral part of the Agency's accrual accounting and cost-based budgeting systems required under 31 U.S.C. 3512.

Affected Public: Business or other for-profit, Not-for-profit institutions.

Number of Respondents: 850.

Responses Per Respondent: 12.

Annual Responses: 10,200.

Hours Per Request: 9 hrs.

Annual Burden Hours: 91,500.

Frequency of Report: Quarterly; Monthly.

Andrea T. Norris,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–13621 Filed 5–30–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–064]

Information Collection: Submission for OMB Review, Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information is required to monitor contract compliance in support of NASA's mission and in response to procurement requirements.

DATES: Comments on this proposal should be received on or before July 2, 2001.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Reports: None.

Title: Patents, Data and Copyrights, NASA FAR Supplement, Part 1827.

OMB Number: 2700–0052.

Type of review: Extension.

Need and Uses: The information is used by NASA legal and contracting offices to ensure disposition of inventions in accordance with statutes

and to determine the Government's rights in data. Collection is prescribed in the NASA Federal Acquisition Regulation Supplement, Part 1827, Patents, Data and Copyrights (48 CFR Part 1827.)

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 1,988.

Responses Per Respondent: 1.2.

Annual Responses: 2,386.

Hours Per Request: 30 minutes to 8 hours.

Annual Burden Hours: 7,276.

Frequency of Report: Annually; Biennially; Other (Per Contract).

Andrea T. Norris,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–13620 Filed 5–30–01; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–063)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Thermosurgery Technology, Inc., of Phoenix, Arizona, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 6,083,158, entitled ''Real-Time Visualization of Tissue Ischemia,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Management Office-JPL.

DATE(S): Responses to this notice must be received by July 30, 2001.

FOR FURTHER INFORMATION CONTACT: Patent Counsel, NASA Management Office-JPL, 4800 Oak Grove Drive, Mail Station 180–801, Pasadena, CA 91109–8099.

Dated: May 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–13619 Filed 5–30–01; 8:45 am]

BILLING CODE 7510–01–U

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 136, ''Security Termination Statement''; NRC Form 237, ''Request for Access Authorization''; NRC Form 277, ''Request for Visit or Access Approval''.

3. *The form number if applicable:* 3150–0049, NRC Form 136; 3150–0050, NRC Form 237; 3150–0051, NRC Form 277.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* NRC Form 136, licensee and contractor employees, who have been granted an NRC access authorization; NRC Form 237, any employee of approximately 20 licensees and 2 contractors who will require an NRC access authorization; NRC Form 277, any employee of 2 current NRC contractors who (1) holds an NRC access authorization, and (2) needs to make a visit to NRC, other contractors/licensees or government agencies in which access to classified information will be involved or unescorted area access is desired.

6. *An estimate of the number of responses:* NRC Form 136: 400; NRC Form 237: 80; NRC Form 277: 6.

7. *The estimated number of annual respondents:* NRC Form 136: 22; NRC Form 237: 22; NRC Form 277: 2.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* NRC Form 136: 40; NRC Form 237: 16; NRC Form 277: 1.

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* The NRC Form 136 affects the employees of licensees and contractors who have been granted an NRC access authorization. When access authorization is no longer needed, the completion of the form apprises the respondents of their continuing security responsibilities. The NRC Form 237 is completed by licensees, NRC contractors or individuals who require an NRC access authorization. The NRC Form 277 affects the employees of contractors who have been granted an NRC access authorization and require verification of that access authorization and need-to-know in conjunction with a visit to NRC or another facility.

A copy of the supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by July 2, 2001: Amy Farrell, Office of Information and Regulatory Affairs (3150–0049, 0050 & 0051), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–7318.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 23rd day of May 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–13608 Filed 5–30–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 127th meeting on June 19–21, 2001, at 11545 Rockville Pike, Rockville, Maryland, Room T–2B3.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, June 19, 2001

A. *8:30–10:15 a.m.: Opening Statement/Planning and Procedures*

(Open)—The Chairman will open the meeting with brief opening remarks. The Committee will then review items under consideration at this meeting and consider topics proposed for future ACNW meetings.

B. *10:30–11:30 a.m.: Overview of Private Fuel Storage* (Open)—The Committee will receive an information briefing from the NRC staff on the status of the facility application for a license to store spent fuel in a facility to be constructed outside Tooele, Utah.

C. *1–2 p.m.: Update on the Pre-Closure Approach—NRC* (Open)—The Committee members will receive an update and information briefing from NRC on their approach to pre-closure issues at the proposed high level waste repository at Yucca Mountain, Nevada.

D. *2–3 p.m.: Public Outreach Activities* (Open)—The Committee members will receive an information briefing from NRC on their public outreach activities.

E. *3–4 p.m.: Break and Preparation of Draft ACNW Reports*—The cognizant ACNW members will prepare draft reports, as needed, for consideration by the full Committee.

F. *4–6:30 p.m.: Discussion of Proposed ACNW Reports* (Open)—The Committee will discuss proposed ACNW reports on High Level Waste Chemistry; Public Outreach Activity; Yucca Mountain Pre-Closure Approach; Risk-Informed, Performance Based Waste Management and Decommissioning.

Wednesday, June 20, 2001

G. *8:30–8:40 a.m.: Opening Remarks by the ACNW Chairman* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

H. *8:40–10:30 a.m.: Key Technical Issues (KTIs)—Vertical Slice Report* (Open)—The Committee members will discuss their progress and the elements of a report on assigned KTIs.

I. 10:45–11:45 a.m.: Meeting Reports (Open)—The Committee will hear reports from the members and staff on meetings attended since the 126th ACNW Meeting, including the Symposium on Quantitative Risk Assessment, Public Workshop on NRC's Hearing Process for Proposed Yucca Mountain Project; Waste Package Peer Review Kickoff Meeting, NRC Meeting with Italian Delegation on Nuclear Waste Issues and Nuclear Waste Technical Review Board Meeting with NRC Commissioners.

J. *11:45–12:00 Noon: Election of ACNW Officers* (Open)—The Committee will nominate and elect members to the positions of Chairman and Vice Chairman for the period July 1, 2001 through June 30, 2002.

K. *1–3:30 p.m.: DOE's Science and Engineering Report* (Open)—The Committee will hear a presentation by DOE on its recently released Science and Engineering Report.

L. *3:30–7 p.m.: Preparation of ACNW Reports* (Open)—The Committee will discuss proposed reports.

Thursday, June 21, 2001

M. *8:30–8:35 a.m.: Opening Remarks by the ACNW Chairman* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

N. *8:35–9:30 a.m.: Memorandum of Understanding (MOU) for Cooperation on Multimedia Environmental Models* (Open)—The Committee will receive an information briefing on the recently signed MOU for Interagency Cooperation in Research and Development of Multimedia Environmental Models for Human and Environmental Health Risk Assessment.

O. *9:30–11 a.m.: Discussion of Proposed ACNW Reports* (Open)—The Committee will continue its discussion of proposed ACNW reports.

P. *11–12:30 p.m.: Overview of Sequoyah Fuels* (Open)—The Committee will receive an information briefing from the NRC staff on the current status of activities at the Sequoyah Fuels Corporation Facility.

Q. *1:30–2 p.m.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 11, 2000 (65 FR 60475). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Howard J. Larson, ACNW, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Larson as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Howard J. Larson, ACNW (Telephone 301/415–6805), between 8 a.m. and 5 p.m. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301/415–8066), between 7:30 a.m. and 3:45 p.m. EDT at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: May 24, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–13610 Filed 5–30–01; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Withholding Certificate for Railroad Retirement Monthly Annuity Payments.

(2) *Form(s) submitted:* RRB W–4P.

(3) *OMB Number:* 3220–0149.

(4) *Expiration date of current OMB clearance:* 8/31/2001.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Program planning or management.

(7) *Estimated annual number of respondents:* 25,000.

(8) *Total annual responses:* 25,000.

(9) *Total annual reporting hours:* 1.

(10) *Collection description:* Under Public Law 98–76, railroad retirement beneficiaries' Tier II, dual vested and supplemental benefits are subject to income tax under private pension rules. Under Public Law 99–514, the non-social security equivalent benefit portion of Tier I is also taxable under private pension rules. The collection obtains the information needed by the Railroad Retirement Board to implement the income tax withholding provisions.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–13653 Filed 5–30–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24992]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

May 24, 2001.

The following is a notice of a applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of May, 2001. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW, Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 19, 2001, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0506.

Nuveen Tax Exempt Unit Trust Series 3—National Trust 3 [File No. 811–1109]; Nuveen Tax Exempt Unit Trust Series 4 [File No. 811–1110]; Nuveen Tax Exempt Unit Trust Series 5 [File No. 811–1230]; Nuveen Tax Exempt Unit Trust Series 6 [File No. 811–1238]; Nuveen Tax Exempt Unit Trust Series 7 [File No. 811–1260]; Nuveen Tax Exempt Unit Trust Series 8 [File No. 811–1291]; Nuveen Tax Exempt Unit Trust Series 16 [File No. 811–1547]; Nuveen Tax Exempt Unit Trust Series 9 [File No. 811–1306]; Nuveen Tax Exempt Unit Trust Series 12 [File No. 811–1395]; Nuveen Tax Exempt Unit Trust Series 13 [File No. 811–1439]; Nuveen Tax Exempt Unit Trust Series 14 [File No. 811–1480]; Nuveen Tax Exempt Unit Trust Intermediate Series 1 [File No. 811–2664]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. Between April 15, 1991, and December 15, 1991, each applicant made a liquidating distribution to its shareholders based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date; The applications were filed on April 18, 2001.

Applicants' Address: 333 West Wacker Drive, Chicago, IL 60606.

Nuveen Tax Exempt Unit Trust Series 23 [File No. 811–1962]; Nuveen Tax Exempt Unit Trust Series 24 [File No. 811–2022]; Nuveen Tax Exempt Unit Trust Series 26 [File No. 811–2049]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company., On July 15, 1991, October 15, 1991, and August 15, 1992, respectively, each applicant made a liquidating distribution to its shareholders based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on April 19, 2001.

Applicants' Address: 333 West Wacker Drive, Chicago, IL 60606.

Nuveen Tax Exempt Unit Trust Series 28 [File No. 811–2068]; Nuveen Tax Exempt Unit Trust Series 21 [File No. 811–1839]; Nuveen Tax Exempt Unit Trust Series 18 [File No. 811–1654]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On March 15, 1996, August 15, 1996, and August 15, 1998, respectively, each applicant made a liquidating distribution to its shareholders based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on April 19, 2001.

Applicants' Address: 333 West Wacker Drive, Chicago, IL 60606.

Nuveen Tax Exempt Unit Trust Series 36 National Trust 36 [File No. 811–2179]; Nuveen Tax Exempt Unit Trust Series 40 National Trust 40 [File No. 811–2244

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On November 15, 1994, each applicant made a liquidating distribution to its shareholders based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on April 19, 2001.

Applicants' Address: 333 West Wacker Drive, Chicago, IL 60606.

Nuveen Tax Exempt Unit Trust Series 37 National Trust 37 [File No. 811–2198]; Nuveen Tax Exempt Unit Trust Series 27 [File No. 811–2059]; Nuveen Tax Exempt Unit Trust Series 17 [File No. 811–1575]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On February 15, 1992, each applicant made a liquidating distribution to its shareholders based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on April 19, 2001.

Applicants' Address: 333 West Wacker Drive, Chicago, IL 60606.

Nuveen Tax Exempt Unit Trust Series 11 [File No. 811–1378]; Nuveen Tax Exempt Unit Trust Series 10 [File No. 811–1328]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an

investment company. On February 15, 1992, and September 15, 1992, respectively, each applicant made a liquidating distribution to its shareholders based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on April 18, 2001.

Applicants' Address: 333 West Wacker Drive, Chicago, IL 60606.

Nuveen Tax Exempt Unit Trust Series 31 National Trust 31 [File No. 811–2102]; Nuveen Tax Exempt Unit Trust Series 29 National Trust 29 [File No. 811–2088]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On September 15, 1995, and September 15, 1997, respectively, each applicant made a liquidating distribution to its shareholders based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on April 19, 2001.

Applicants' Address: 333 West Wacher Drive, Chicago, IL 60606.

Nuveen Tax Exempt Unit Trust Series 22 [File No. 811–1908]; Nuveen Tax Exempt Unit Trust Series 25 [File No. 811–2044]; Nuveen Tax Exempt Unit Trust Series 33 National Trust 33 [File No. 811–2141]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On March 15, 1993, September 15, 1993, and May 15, 1994, respectively, each applicant made a liquidating distribution to its shareholders based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on April 19, 2001.

Applicants' Address: 333 West Wacker Drive, Chicago, IL 60606.

American General Series Portfolio Company 2 [File No. 811–8875]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 7, 2000, applicant transferred its assets to North American Funds, based on net asset value. Expenses of $1,326,467 incurred in connection with the reorganization were paid by American General Corporation, the parent of applicant's investment adviser.

Filing Date: The application was filed on March 22, 2001.

Applicant's Address: 2929 Allen Parkway, Houston, TX 77019.

Pennsylvania Daily Municipal Income Fund [File No. 811–6681]

Summary: Applicant seeks an order declaring that is has ceased to be an investment company. On February 14, 2001, applicant made a liquidating distribution to its sole shareholder based on net asset value. Expenses of $3,000 incurred in connection with the liquidation were paid by Reich & Tang Asset Management LLC, applicant's investment adviser.

Filing Date: The application was filed on May 9, 2001.

Applicant's Address: 600 Fifth Avenue, New York, NY 10020.

Firstar Select Funds [File No. 811–8155]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 23, 2000, applicant transferred its assets to Firstar REIT Fund, based on net asset value. Expenses of $130,820 incurred in connection with the reorganization were paid by Firstar Investment Research & Management Company, LLC.

Filing Date: The application was filed on April 2, 2001.

Applicant's Address: 431 North Pennsylvania Street, Indianapolis, IN 46204.

Cappiello-Rushmore Trust [File No. 811–6601]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 12, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $63,783 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on April 20, 2001.

Applicant's Address: 4922 Fairmont Avenue, Bethesda, MD 20814.

The Buttonwood Funds, Inc. [File No. 811–4702]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 2, 2001, applicant made a final liquidating distribution to its shareholders based on net asset value. Expenses of $10,760 incurred in connection with the liquidation were shared equally by Independence Capital Management, Inc., applicant's investment adviser and Janney Montgomery Scott LLC, applicant's distributor.

Filing Date: The application was filed on April 18, 2001.

Applicant's Address: Two Bala Cynwyd Plaza, Bala Cynwyd, PA 19004.

Gabelli Income Series Funds, Inc. [File No. 811–8866]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on March 27, 2001, and amended on May 2, 2001.

Applicant's Address: One Corporate Center, Rye, NY 10580–1434.

Tristar Large Cap Stock Fund [File No. 811–9723]

Summary: Applicant seeks an order declaring that is has ceased to be an investment company. On February 15, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of approximately $238 incurred in connection with the liquidation were paid by Tristar Capital Management, Corp., applicant's investment adviser.

Filing Dates: The applicant was filed on April 3, 2001, and amended on May 11, 2001.

Applicant's Address: 13605 Crestway Dr., Brook Park, OH 44142.

SM&R Growth Fund, Inc. [File No. 811–623] SM&R Equity Income Fund, Inc. [File No. 811–1916] SM&R Balanced Fund, Inc. [File No. 811–2818]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On December 31, 2000, each applicant transferred its assets to a corresponding series of SM&R Investments, Inc., based on net asset value. Expenses of $65,888, $42,323 and $29,355, respectively, were incurred in connection with the reorganizations and were paid by Securities Management and Research, Inc., each applicant's investment adviser.

Filing Dates: The applications were filed on February 28, 2001, and amended on April 20, 2001 and April 27, 2001.

Applicant's Address: Securities Management and Research, Inc., 2450 South Shore Boulevard, Suite 400, League City, Texas 77573.

StockJungle.com Trust [File No. 811–9403]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 7, 2000, applicant transferred its assets to three series of the Trust for Investment Management based on net asset value. Expenses of $38,000 incurred in connection with the reorganization were

paid by StockJungle.com Advisors, Inc., applicant's investment adviser.

Filing Dates: The application was filed on March 15, 2001, and amended on May 1, 2001.

Applicant's Address: 5750 Wilshire Boulevard, Suite 560, Los Angeles, CA 90036.

Allied Owners Action Fund Inc. [File No. 811–9551]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 26, 2001, applicant made a liquidating distributing to its shareholders based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on April 20, 2001, and amended on May 17, 2001.

Applicant's Address: 215 W 91st #112, New York, NY 10024.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13632 Filed 5–30–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44348; File No. S7–24–89]

Joint Industry Plan; Solicitation of Comments and Order Approving Request to Extend Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., the Pacific Exchange, Inc. and the Boston, Chicago, Philadelphia, and Cincinnati Stock Exchanges

May 24, 2001.

I. Introduction

On May 23, 2001, the Cincinnati Stock Exchange, Inc. (''CSE'') on behalf of itself and the National Association of Securities Dealers, Inc. (''NASD''), the Boston Stock Exchange, Inc. (''BSE''), the Chicago Stock Exchange, Inc. (''CHX''), Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (hereinafter referred to as the ''Participants'') [1] submitted to the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposal to extend the operation of the Plan [2] for Nasdaq/National Market (''Nasdaq/NM'') securities traded on an exchange on an unlisted basis.[3] The May 2001 Extension Request would extend the effectiveness of the Plan through July 19, 2001 and also would extend certain exemptive relief as described below. The May 2001 Extension Request does not seek permanent approval of the Plan because the Participants currently are negotiating certain amendments to the Plan for which they will seek approval in the future.[4]

II. Background

The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or traded on an exchange pursuant to a grant of UTP.[5] The Commission originally approved the Plan on a pilot basis on June 26, 1990.[6] The parties did not begin trading until July 12, 1993, accordingly, the pilot period commenced on July 12, 1993. The Plan as since been in operation on an extended pilot basis.[7]

III. Description of the Plan

The Plan provides for the collection from Plan Participants, and the consolidation and dissemination to vendors, subscribers and others, of quotation and transaction information in ''eligible securities.'' [8] The Plan contains various provisions concerning its operation, including: Implementation of the Plan; Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information; Report Requirements (including hours of operation); Standards and Methods of Ensuring Promptness, Accuracy and Completeness of Transaction Reports; Terms and Conditions of Access; Description of Operation of Facility Contemplated by the Plan; Method and Frequency of Processor Evaluation; Written Understanding of Agreements Relating to Interpretation of, or Participation in, the Plan; Calculation of the Best Bid and Offer (''BBO''); dispute Resolution; and Method of Determination and Imposition, and Amount of Fees and Charges.[9]

IV. Exemptive Relief

In conjunction with the Plan, on a temporary basis, the Commission granted an exemption to vendors from Rule 11 Ac1–2 [10] under the Act

[1] The CSE was elected as chair of the Operating Committee for the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Exchange-Listed Nasdaq/National Market System Securities and for Nasdaq/National Market System Securities Traded on Exchange on an Unlisted Trading Privileges Basis (''Plan'') by the Participants.

[2] *See* Letter from Jeffrey T. Brown, Vice President Regulation and General Counsel, CSE, to Jonathan G. Katz, Secretary, Commission, dated May 21, 2001 (''May 2001 Extension Request''). The signatories to the Plan are the Participants for purposes of this release; however, the BSE joined the Plan as a ''limited participant'' and reports quotation information and transaction reports only in Nasdaq/National Market securities listed on the BSE. Originally, the American Stock Exchange Inc. (''Amex'') was a Participant but withdrew its participation from the Plan in August 1994.

[3] Section 12 of the Securities Exchange Act of 1934 (''Act'') generally requires an exchange to trade only those securities that the exchange lists, except that section 12(f) of the Act permits unlisted traded privileges (''UTP'') under certain circumstances. For example, section 12(f), among other things, permits exchanges to trade certain securities that are traded over-the-counter (''OTC/UTP''), but only pursuant to a Commission order or rule. The present order fulfills this section 12(f) requirement. For a more complete discussion of the section 12(f) requirement, *see* November 1995 Extension Order, *infra* note 7.

[4] In accordance with the Commission's statements in its order approving the establishment of the Nasdaq Order Display Facility and Order Collector Facility (''SuperMontage''), the Participants represent that they are revising the Plan. *See* Securities Exchange Act Release No. 43863 (January 19, 2001) 66 FR 8020 (January 26, 2001).

[5] *See* Section 12(f)(2) of the Act, 15 U.S.C. 781(f)(2).

[6] *See* Securities Exchange Act Release No. 28146, 55 FR 27917 (July 6, 1990) (''1990 Plan Approval Order'').

[7] *See* Securities Exchange Act Release Nos. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995); 36226 (September 13, 1995), 60 FR 49029 (September 21, 1995); 36368 (October 13, 1995), 60 FR 54091 (October 19, 1995); 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995) (''November 1995 Extension Order''); 36589 (December 13, 1995), 60 FR 65696 (December 20, 1995); 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996); 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996); 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); 38794 (June 30, 1997) 62 FR 365486 (July 8, 1997); 39505 (December 31, 1997) 63 FR 1515 (January 9, 1998); 40151 (July 1, 1998) 63 FR 36979 (July 8, 1998); 40896 (December 31, 1998), 64 FR 1834 (January 12, 1999); 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999) (''May 1999 Approval Order''); 42268 (December 23, 1999), 65 FR 1202 (January 6, 2000); 43005 (June 30, 2000), 65 FR 42411 (July 10, 2000); and 44099 (March 23, 2001), 66 FR 17457 (March 30, 2001).

[8] The Plan defines ''eligible security'' as any Nasdaq/NM security as to which unlisted trading privileges have been granted to a national securities exchange pursuant to Section 12(f) of the Act or that is listed on a national securities exchange. On May 12, 1999, in response to a request from the CHX, the Commission expanded the number of eligible Nasdaq/NM securities that may be traded by the CHX pursuant to the Plan from 500 to 1000. *See* May 1999 Approval Order, *supra* note 7. On November 9, 2000, the Commission notices and requested comment on a proposal by the PCX to expand the maximum number of securities eligible to trade all Nasdaq/NM securities. *See* Securities Exchange Act Release No. 43545, 65 FR 69581 (November 17, 2000).

[9] The full text of the Plan, as well as a ''Concept Paper'' describing the requirements of the Plan, are contained in the original filing, which is available for inspection and copying in the Commission's public reference room.

[10] 17 CFR 240.11 Ac1–2.

regarding the calculation of the BBO [11] and granted the BSE an exemption from the provision of Rule 11Aa3–1 [12] under the Act that requires transaction reporting plans to include market identifiers for transaction reports and last sale data. In the May 2001 Extension Request, the Participants ask that the Commission grant an extension of the exemptive relief described above to vendors until the BBO calculation issue is fully resolved. In addition, in the May 2001 Extension Request, the Participants request that the Commission grant an extension of the exemptive relief described above to the BSE until July 19, 2001.

V. Solicitation of Comment

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. The Commission continues to solicit comment regarding the BBO calculation, the trade-through rule and any issues presented by changes occurring in the market place. 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 proposal that are filed with the Commission, and all written communications relating to the proposal between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. All submissions should refer to File No. S7–24–89 and should be submitted by June 21, 2001.

VI. Discussion

The Commission finds that an extension of temporary approval of the operation of the Plan, as amended, through July 19, 2001, is appropriate and in furtherance of Section 11A [13] of the Act.[14] The Commission has previously stated that a revised Plan must be filed with the Commission by July 19, 2001, or the Commission will amend the Plan directly.[15] The Participants represent in their proposal that they are negotiating certain amendments to be included in an interim plan, which would be effective from the date of Commission approval, and no later than the expiration of this extension on July 19, 2001. The Participants also represent that they are considering a permanent plan (that would include a fully viable alternative exclusive or non-exclusive securities information processor) to be filed with the Commission on July 19, 2001. In light of the current negotiations regarding the existing Plan and the representations of the Participants in their request to the Commission, the Commission approves the requested extension of the Plan until July 19, 2001.

The Commission notes that the revised Plan, which must be filed with the Commission by July 19, 2001, must provide for either (1) a fully viable alternative exclusive securities information processor (''SIP'') for all Nasdaq securities, or (2) a fully viable alternative non-exclusive SIP in the event that the Plan does not provide for an exclusive SIP. If the revised Plan provides for an exclusive consolidating SIP, a function currently performed by Nasdaq, the Commission believes that, to avoid conflicts of interest, there should be a presumption that a Plan Participant, and in particular Nasdaq, should not operate such exclusive consolidating SIP. The presumption may be overcome if: (1) The Plan processor is chosen on the basis of bona fide competitive bidding and the Participant submits the successful bid; and (2) any decision to award a contract to a Plan Participant, and any ensuing review or renewal of such contract, is made without that Plan Participant's direct or indirect voting participation. If a Plan Participant is chosen to operate such exclusive SIP, the Commission believes there should be a further presumption that the Participant-operated exclusive SIP shall operate completely separate from any order matching facility operated by that Participant and that any order matching facility operated by that Participant must interact with the plan-operated SIP on the same terms and conditions as any other market center trading Nasdaq listed securities. Further, the Commission will expect the NASD to provide direct or indirect access to the alternative SIP, whether exclusive or non-exclusive, by any of its members that qualify, and to disseminate transaction information and individually identified quotation information for these members through the SIP.

In addition, the revised Plan should resolve the issues, which have been pending since the implementation of the Plan, of whether there is a need for an intermarket linkage for order routing and execution, whether there is a need for a trade-through rule to facilitate the trading of OTC securities pursuant to UTP, and how the BBO calculation should be determined for securities traded pursuant to the Plan.

Furthermore, the revised Plan should be open to all SROs, and the Plan should share governance of all matters subject to the Plan equitably among the SRO Participants. The Plan also should provide for sharing of market data revenues among SRO Participants. Finally, the Plan should provide a role for participation in decision making to non-SROs, that have direct or indirect access to the alternative SIP provided by the NASD. The Commission expects the parties to continue to negotiate in good faith on the above matters [16] as well as any other issues that arise during Plan negotiations.

The Commission also finds that it is appropriate to extend the exemptive relief from Rule 11Ac1–2 [17] under the Act until the earlier of July 19, 2001, or until such time as the calculation methodology of the BBO is based on a mutual agreement among the Participants approved by the Commission. The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Aa3–1[18] under the Act to the BSE through July 19, 2001. The Commission believes that the temporary extensions of the exemptive relief provided to vendors and the BSE, respectively, are consistent with the Act, the Rules thereunder, and specifically with the objectives set forth in sections 12(f) [19] and 11A [20] of the Act and in Rules 11Aa3–1 [21] and 11Aa3–2 [22] thereunder.

[11] Rule 11 Ac1–2 under the Act requires that the best bid or best offer to be computed on a price/size/time algorithm in certain circumstances. Specifically, Rule 11 Ac1–2 under the Act provides that ''in the event two or more reporting market centers make available identical bids or offers for a reported security, the best bid or offer * * * shall be computed by ranking all such identical bids or offers * * * first by size * * * then by time.'' The exemption permits vendors to display the BBO for Nasdaq securities subject to the Plan on a price/time/size basis.

[12] 17 CFR 11 Aa3–1.

[13] 15 U.S.C. 78k–1.

[14] In approving this extension, the Commission has considered the extension's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[15] *See supra* note 4.

[16] *See also* discussion in the SuperMontage order, *supra* note 4.

[17] 17 CFR 11Ac1–2.

[18] 17 CFR 11Aa3–1.

[19] 15 U.S.C. 78*1*(f).

[20] 15 U.S.C. 78k–1.

[21] 17 CFR 240.11Aa3–1.

[22] 17 CFR 240.11Aa3–2.

VII. Conclusion

It is Therefore Ordered, pursuant to sections 12(f)[23] and 11A[24] of the Act and paragraph (c)(2) of Rule 11Aa3–2[25] thereunder, that the Participants' request to extend the effectiveness of the Plan, as amended, for Nasdaq/NM securities traded on an exchange on an unlisted or listed basis through July 19, 2001, and certain exemptive relief through July 19, 2001, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13631 Filed 5–30–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44347; File No. SR–OPRA–2001–02]

Options Price Reporting Authority; Notice of Filing of Amendment to OPRA Plan to Permit Exchanges to Disseminate Unconsolidated Market Information to Certain of Their Members

May 24, 2001.

Pursuant to section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 11Aa3–2 thereunder,[2] notice is hereby given that on April 12, 2001, the Options Price Reporting Authority (''OPRA''),[3] submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan''). The amendment would permit options exchanges to disseminate unconsolidated market information to certain of their members under certain circumstances.

I. Description and Purpose of the Amendment

The purpose of the proposed amendment is to change the provision of the OPRA Plan that requires the parties to use the OPRA System as the exclusion means for the dissemination of options last sale reports and quotation information (the ''exclusivity clause''). The proposed amendment, in part, would modify the exclusivity clause to incorporate two conditional, temporary exemptions from the exclusivity clause that the Commission previously granted to the ISE and the CBOE.[4] These exemptions, which expire on May 26, 2001, and which the Commission is extending today until September 1, 2001,[5] permit these two exchanges to disseminate to all of their members, but not to other persons, unconsolidated market information pertaining to options traded in their respective markets by means of communication networks other than the OPRA System, subject to conditions.

The proposed amendment would modify the exclusivity clause so that each OPRA participant could disseminate its own market information by means of communication networks separate from the OPRA System under the following conditions. First, an OPRA participant could disseminate its own market information through means separate from the OPRA System only to other OPRA participants and to its members to display on terminals or workstations used by persons associated with such members who are authorized to enter or transmit orders or quotations in the options market maintained by the OPRA participant.[6] This condition means that an exchange's market information could not be furnished to a customer of a member, whether over a terminal sponsored by a member or otherwise. Second, each member to which an OPRA participant disseminates its market information would be required to have equivalent access to consolidated options market information disseminated by OPRA for the same classes or series of options that are included in the market information.[7] Access would be deemed to be ''equivalent'' if the information were equally accessible on the same terminal or workstation. Both of these conditions are consistent with conditions set forth by the Commission in the exemption letters to the ISE and CBOE.

Finally, the proposed amendment would prohibit OPRA participants from disseminating their market information through means other than the OPRA System on a more timely basis than the same information is furnished to the OPRA System for inclusion in the consolidated information disseminated by OPRA.[8] While this condition is similar to one set forth in the exemption letters, the proposed amendment differs materially from that in the exemption letters because it would not consider market information to be disseminated more timely than information is furnished to the OPRA System simply because the market information includes additional or more frequently updated information, so long as it does not include additional or more frequently updated price information in respect of the best bid or best offer for any series of options as compared with price information furnished to OPRA. Accordingly, the proposed amendment would permit an OPRA participant to provide market information through a network separate from the OPRA System that is in addition to or different from the information furnished to the OPRA System, including information concerning orders and quotations in the OPRA participants' market that do not represent the best bid and offer and size information that is not furnished to OPRA.

The Quote Rule[9] requires that if an exchange collects from responsible brokers or dealers quotation sizes and aggregate quotation sizes in listed options, such exchange must make available the aggregate quotation sizes associated with the best bid and offer to quotation vendors. The Commission believes, and OPRA acknowledges, that, absent an exemption from the Quote Rule, an exchange may not make available aggregate quote size through a network separate from the OPRA System (*i.e.,* make available to a quotation vendor) without also making such information available to other

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[23] 15 U.S.C. 78*l*(f).

[24] 15 U.S.C. 78k–1.

[25] 17 CFR 240.11Aa3–2(c)(2).

[26] 17 CFR 200.30–3(a)(29).

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 240.11Aa3–2.

[3] OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act, 15 U.S.C. 78k–1, and Rule 11Aa3–2 thereunder, 17 CFR 240.11Aa3–2. *See* Securities Exchange Act Release No. 17638 (March 18, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five categories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange (''CBOE''), the International Securities Exchange (''ISE''), the Pacific Exchange, and the Philadelphia Stock Exchange. The New York Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the Chicago Board Options Exchange in 1997. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

[4] *See* Letters from Robert L.D. Colby, Deputy Director, Division of Market Regulation, Commission, to Michael J. Simon, Senior Vice President and General Counsel, ISE, dated May 25, 2000 and Edward J. Joyce, President, CBOE, dated November 6, 2000.

[5] *See* Letters from Robert L.D. Colby, Deputy Director, Division of Market Regulation, Commission, to Michael J. Simon, Senior Vice President and General Counsel, ISE, and Edward J. Joyce, President, CBOE, dated May 24, 2001.

[6] *See* proposed OPRA Plan amendment, Section V.(c)(iii)(A).

[7] *See* proposed OPRA Plan amendment, Sectioin V.(c)(iii)(B).

[8] *See* proposed OPRA Plan amendment, Section V.(c)(iii)(C).

[9] Exchange Act Rule 11Ac1–1, 17 CFR 240.11Ac1–1.

quotation vendors through the OPRA System.

By modifying the OPRA Plan to incorporate the previously granted exemptions from the OPRA Plan's exclusivity clause, OPRA believes that the proposed amendment would place all of the parties to the OPRA Plan on equal footing with respect to the right to disseminate their market data to their members. OPRA believes that this would allow any of the parties to the OPRA Plan to make market information available to those of its members who enter or transmit orders or quotes in or to its market, while at the same time assuring that all persons who have access to market information also have equal access to consolidated market information disseminated by OPRA. OPRA represents that because parties that operate an electronic market or an electronic trading facility must be allowed to disseminate market information to their members who enter orders or quotes in their markets, the proposed amendment would provide parties who do not maintain such electronic facilities with the same right to disseminate market information to their members, thereby fostering fair and equal competition among all of the parties.

II. Implementation of Amendment

The proposed amendment will be effective upon its approval by the Commission pursuant to Rule 11Aa3–2 of the Act.[10]

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan Amendment 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, and all written statements with respect to the proposed OPRA Plan amendment that are filed with the Commission, and all written communications relating to the proposed OPRA Plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–2001–02 and should be submitted by June 21, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

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[10] 17 CFR 24.0.11Aa3–2. OPRA requested that the Commission approve the amendment prior to May 26, 2001, to avoid disrupting the markets of the two exchanges that are now operating under the previously granted temporary exemptions, which are scheduled to expire on that date. However, in order to allow for a full comment period on this proposal, the Commission has extended the previously granted temporary exemptions for another 90 days. *See* note 5, *supra.*

[11] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44342; File No. SR–Amex–2001–28]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Select Ten Notes

May 23, 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 7, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade notes, the return on which is based upon an equal-dollar weighted portfolio of securities representing the ten highest dividend yielding stocks in the Dow Jones Industrial Average (''DJIA'') from year to year (the ''Select Ten Index'' or ''Index'').[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The initial portfolio of securities comprising the Select Ten Index for the first year will be the highest dividend yielding stocks as of May 1, 2001, and are as follows: Philip Morris Co., Inc.; Eastman Kodak Co.; General Motors Corp.; DuPont El De Nemours; J.P. Morgan Chase & Co.; Caterpillar Inc.; International Paper Co.; SBC Communications, Inc.; Proctor & Gamble Co.; and Minnesota Mining & Manufacturing Co. The portfolio of securities will include the ten highest dividend yielding stocks in the DJIA for that year and the Amex will not have any discretion in the selection process.

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 Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under section 107A of the Amex Company Guide (''Company Guide''), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[4] The Amex proposes to list for trading under section 107A of the Company Guide notes based on the Select Ten Index (the ''Select Ten Notes'' or ''Notes''). The Select Ten Index will be determined, calculated and maintained solely by the Amex.[5]

The Select Ten Notes will conform to the initial listing guidelines under Section 107 [6] and continued listing guidelines under sections 1001–1003 [7]

[4] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex–89–29).

[5] Subject to the criteria in the prospectus regarding the construction of the Index, the Exchange has sole discretion regarding changes to the Index due to annual reconstitutions and adjustments to the Index and the multipliers of the individual components.

[6] The initial listing standards for Select Ten Notes require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least $4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholder's equity of at least $20 million.

[7] The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10

Continued

of the Company Guide. Select Ten Notes are senior non-convertible debt securities of Merrill Lynch & Co., Inc. (''Merrill Lynch'') that provide for a single payment at maturity. The Select Ten Notes will have a term of not less than one, nor more than ten, years. Select Ten Notes will entitle the owner at maturity to receive an amount based upon the percentage change between the ''Starting Index Value'' and the ''Ending Index Value'' (the ''Redemption Amount''). The ''Starting Index Value'' is the value of the Select Ten Index on the date on which the issuer prices the Select Ten Notes issue for the initial offering to the public. The ''Ending Index Value'' is the value of the Select Ten Index over a period shortly prior to the expiration of the Select Ten Notes. The Ending Index Value will be used in calculating the amount owners will receive upon maturity. The Select Ten Notes may not have a minimum principal amount that will be repaid and, accordingly, payments on the Notes prior to or at maturity may be less than the original issue price of the Select Ten Notes. During the designated month each year, the investors may have the right to require the issuer to repurchase the Select Ten Notes at a redemption amount based on the value of the Select Ten Index at such repurchase date. Select Ten Notes are not callable by the issuer.

Select Ten Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security or any other ownership right or interest in the portfolio securities, although the return on the investment is based on the aggregate portfolio value of the Select Ten Index securities.

The Select Ten Index will consist of the ten stocks with the highest dividend yields among the thirty stocks that comprise the DJIA, adjusted as described below. The Index will be composed and calculated in a similar manner as the Top Ten Yield Index previously approved by the Commission.[8]

Components of the Select Ten Index approved pursuant to this filing will meet the following criteria: (1) A minimum market value of at least $75 million, except that up to 10% of the component securities in the Select Ten Index may have a minimum market value of $50 million; (2) average monthly trading volume in the last six months of not less than 1,000,000 shares, except that up to 10% of the component securities in the Select Ten Index may have an average monthly trading volume of 500,00 shares or more in the last six months; (3) 90% of the Select Ten Index's numerical value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; and (4) all component stocks will either be listed on the Amex, the New York Stock Exchange, Inc. (''NYSE''), or traded through the facilities of the National Association of Securities Dealers Automated Quotation System (''NASDAQ'') and reported National Market System securities.

As of May 1, 2001, the market capitalization of the initial portfolio of securities representing the Select Ten Index ranged from a high of $145 billion to a low of $12.8 billion. The average monthly trading volume for the last six months, as of the same date, ranged from a high of 188 million shares to a low of 34 million shares. Moreover, as of May 1, 2001, all of the components comprising the initial portfolio of securities representing the Select Ten Index were eligible for standardized options trading pursuant to Amex Rule 915.

At the outset, each of the securities in Select Ten Index will represent approximately an equal percentage of the starting value of the Select Ten Index. Specifically, each security included in the portfolio will be assigned a multiplier on the date of issuance so that the security represents approximately an equal percentage of the value of the entire portfolio on the date of issuance. The multiplier indicates the number of shares (or fraction of one share) of a security, given its market price on an exchange or through NASDAQ, to be included in the calculation of the portfolio. Accordingly, initially each of the ten companies included in the Select Ten Index will represent approximately ten percent of the total portfolio at the time of issuance. The Select Ten Index will initially be set to provide a benchmark value of 100.00 at the close of trading on the day the Select Ten Notes are priced for initial sale to the public.

The value of the Select Ten Index at any time will equal: (1) The sum of the products of the current market price for each stock underlying the Select Ten Index and the applicable share multiplier, plus (2) an amount reflecting current calendar quarter dividends, and less (3) a pro rata portion of the annual index adjustment factor.[9] Current quarter dividends for any day will be determined by the Amex and will equal the sum of each dividend paid by the issuer on one share of stock during the current calendar quarter multiplied by the share multiplier applicable to such stock on the ex-dividend date.

As of the first day of the start of each calendar quarter, the Amex will allocate the current quarter dividends as of the end of the immediately preceding calendar quarter to each then outstanding components of the Select Ten Index. The amount of the current quarter dividends allocated to each stock will equal the percentage of the value of such stock contained in the portfolio of securities comprising the Select Ten Index relative to the value of the entire portfolio based on the closing market price of such stock on the last day in the immediately preceding calendar quarter. The share multiplier of each stock will be increased to reflect the number of shares, or portion of a share, that the amount of the current quarter dividend allocated to each stock can purchase of each stock based on the closing market price on the last day in the immediate preceding calendar quarter.

As of the close of business on each anniversary date (anniversary of the date of the initial issuance of Select Ten Notes) through the applicable anniversary date in the year preceding the maturity of the Select Ten Notes, the portfolio of securities comprising the Select Ten Index will be reconstituted by the Amex so as to include the ten common stocks in the DJIA having the highest dividend yield on the second scheduled index business day prior to such anniversary date. The Exchange will announce such changes to investors

to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Select Ten Notes, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than $400,000.

[8] *See* Securities Exchange Act Release No. 37533 (August 7, 1996), 61 FR 42075 (August 13, 1996) (order granting accelerated approval to File No. SR–Amex–96–28).

[9] At the end of each day, the Index will be reduced by a pro rata portion of the annual index adjustment factor, 1.5% (*i.e.,* 1.5%/365 days = 0.0041% daily). Telephone conversation between Jeffrey P. Burns, Senior Counsel, Amex, and Sapna C. Patel, Attorney, Division of Market Regulation, Commission, on May 22, 2001. This reduction to the value of the Index will reduce the total return to investors upon redeeming Select Ten Notes at maturity. The Amex represents that an explanation of this deduction will be included in any marketing materials, fact sheets, or any other materials circulated to investors regarding the trading of this product.

at least one day prior to the anniversary date.[10]

The portfolio will be reconstituted and rebalanced on the anniversary date so that each stock in the Select Ten Index will represent 10% of the value of the Index. To effectuate this, the share multiplier for each new stock will be determined by the Amex and will indicate the number of shares or fractional portion thereof of each new stock, given the closing market price of such new stock on the anniversary date, so that each new stock represents an equal percentage of the Select Ten Index value at the close of business on such anniversary date. For example, if the Select Ten Index value at the close of business on an anniversary date was 200, then each of the ten new stocks comprising the Select Ten Index would be allocated a portion of the value of the Index equal to 20, and if the closing market price of one such new stock on the anniversary date was 40, the applicable share multiplier would be 0.5. Conversely, if the Select Ten Index value was 80, then each of the ten new stocks comprising the Select Ten Index would be allocated a portion of the value of the Select Ten Index equal to 8, and if the closing market price of one such new stock on the anniversary was 40, the applicable share multiplier would be 0.2. The last anniversary date on which such reconstitution will occur will be the anniversary date in the year preceding the maturity of the Select Ten Notes. As noted above, investors will receive information on the new portfolio of securities comprising the Select Ten Index at least one day prior to each anniversary date.

The multiplier of each component stock in the Select Ten Index will remain fixed unless adjusted for quarterly dividend adjustments, annual reconstitutions or certain corporate events, such as payment of a dividend other than an ordinary cash dividend, a distribution of stock of another issuer to its shareholders,[11] stock split, reverse stock split, and reorganization.

The multiplier of each component stock may be adjusted, if necessary, in the event of a merger, consolidation, dissolution or liquidation of an issuer or in certain other events such as the distribution of property by an issuer to shareholders. If the issuer of a stock included in the Select Ten Index were to no longer exist, whether by reason of a merger, acquisition or similar type of corporate transaction, a value equal to the stock's final value will be assigned to the stock for the purpose of calculating the Select Ten Index value prior to the subsequent anniversary date. For example, if a company included in the Select Ten Index were acquired by another company, a value will be assigned to the company's stock equal to the value per share at the time the acquisition occurred. If the issuer of stock included in the Select Ten Index is in the process of liquidation or subject to a bankruptcy proceeding, insolvency, or other similar adjudication, such security will continue to be included in the Select Ten Index so long as a market price for such security is available or until the subsequent anniversary date. If a market price is no longer available for an Index stock due to circumstances including but not limited to, liquidation, bankruptcy, insolvency, or any other similar proceeding, then the security will be assigned a value of zero when calculating the Select Ten Index for so long as no market price exists for that security or until the subsequent anniversary date. If the stock remains in the Select Ten Index, the multiplier of that security in the Select Ten Index may be adjusted to maintain the component's relative weight in the Select Ten Index at the level immediately prior to the corporate action. In all cases, the multiplier will be adjusted, if necessary, to ensure Select Ten Index continuity.

The Exchange will calculate the Select Ten Index and, similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every fifteen seconds over the Consolidated Tape Association's Network B. The Index value will equal the sum of the products of the most recently available market prices and the applicable multipliers for the component securities.

Because Select Ten Notes are linked to a portfolio of equity securities, the Amex's existing equity floor trading rules will apply to the trading of Select Ten Notes. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to lean the essential facts relating to every customer prior to trading Select Ten Notes.[12] Second, Select Ten Notes will be subject to the equity margin rules of the Exchange.[13] Third, the Exchange, will, prior to trading Select Ten Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in Select Ten Notes and highlighting the special risks and characteristics of the Select Ten Notes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act[14] in general and furthers the objectives of section 6(b)(5)[15] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster corporation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange did not receive any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether 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

[10] The Exchange will publish a notice to advise investors of changes to the securities underlying the Index if any such changes are made following an annual reconstitution.

[11] If the issuer of a component security in the Select Ten Index issues to all of its shareholders publicly traded stock of another issuer, such new securities will be added to the portfolio comprising the Select Ten Index until the subsequent anniversary date. The multiplier for the new component will equal the product of the original issuer's multiplier and the number of shares of the new component issued with respect to one share of the original issuer.

[12] Ammex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer to every order or account accepted.

[13] *See* Amex Rule 462 and section 107B of the Company Guide.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–28 and should be submitted by June 21, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.[16] The Commission finds that this proposal is similar to several approved instruments currently listed and traded on the Amex and the NYSE.[17] Accordingly, the Commission finds that the listing and trading of Select Ten Notes is consistent with the Act and will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with section 6(b)(5) of the Act.[18]

Select Ten Notes are not leveraged instruments; however, their price will still be derived and based upon the underlying linked security. Accordingly, the level of risk involved in the purchase or sale of a Select Ten Notes is similar to the risk involved in the purchase or sale of traditional common stock. Nonetheless, because the final rate of return of a Select Ten Notes is derivatively priced, based on the performance of a portfolio of securities, and the components of the Select Ten Index are more likely to change each year, over the term of the Select Ten Notes, than products previously issued, there are several issues regarding the trading of this type of product.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to Select Ten Notes. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of Select Ten Notes. Moreover, the Exchange will distribute a circular to its membership calling attention to the specific risks associated with Select Ten Notes.

In approving the product, the Commission recognizes that the components are likely to change each year over the life of the product. Nevertheless, the Commission believes that this is acceptable because the Amex has clearly stated its guidelines and formula for replacing components from a specific group of thirty well-known, and highly capitalized securities. Each year, as noted above, the portfolio of securities comprising the Select Ten Index will represent the ten highest dividend yielding securities in the DJIA. Amex will do the calculation for replacements based on a set formula to determine which of the DJIA securities will be in the Index for the following year. The Commission believes that within these confines the potential frequent changes in the components of the Select Ten Index are reasonable and will meet the expectation of investors.

In addition, the Commission notes that the Select Ten Notes are non-principal protected. The Notes may not have a minimum principal amount that will be repaid and that payments on the Notes prior to or at maturity may be less than the original issue price of the Select Ten Notes. The Commission also recognizes the during the designated month each year, the investors may have the right to require the issuer to repurchase the Select Ten Notes at a redemption amount based on the value of the Select Ten Index at such repurchase date.

The Commission notes that Select Ten Notes are dependent upon the individual credit of the issuer, Merrill Lynch. To some extent this credit risk is minimized by the Exchange's listing standards in Section 107A of the Company Guide which provide the only issuers satisfying substantial asset and equity requirements may issue securities as Select Ten Notes. In addition, the Exchange's hybrid listing standards further require that Select Ten Notes have at least $4 million in market value.[19] In any event, financial information regarding Merrill Lynch, in addition to the information on the issuers of the underlying securities comprising the Select Ten Index, will be publicly available.[20]

The Commission also has a systemic concern, however, that a broker-dealer, such as Merrill Lynch, or a subsidiary providing a hedge for the issuer will incur position exposure. As discussed in the prior approval orders for similar instruments (*e.g.,* the MITTS), the Commission believes this concern is minimal given the size of Select Ten Notes issuance is relation to the net worth of Merrill Lynch.

The Commission also believes that the listing and trading of Select Ten Notes should not unduly impact the market for the underlying securities comprising the Select Ten Index. First, the underlying securities comprising the DJIA, from which the Select Ten Index components are selected, are well-capitalized, highly liquid stocks. Second, because all of the components of the Select Ten Index will be equally weighted, initially and immediately following each annual reconstitution of the Select Ten Index, no single stock or group of stocks will likely dominate the Select Ten Index. Finally, the issues of the underlying securities comprising the Select Ten Index, are subject to reporting requirements under the Act, and all of the portfolio securities are either listed or traded on, or traded through the facilities of, U.S. securities markets. Additionally, the Amex's surveillance procedures will serve to deter as well as detect any potential manipulation.

Finally, the Commission notes that the value of the Select Ten Index will

[16] *Id.*

[17] *See* Securities Exchange Act Release Nos. 42582 (March 27, 2000), 65 FR 17685 (April 4, 2000) (accelerated approval order for the listing and trading of notes linked to a basket of no more than twenty equity securities) (File No. SR–Amex–99–42); 41546 (June 22, 1999), 64 FR 35222 (June 30, 1999) (accelerated approval order for the listing and trading of notes linked to a narrow based index with a non-principal protected put option) (File No. SR-Amex–99–15); 39402 (December 4, 1997), 62 FR 65459 (December 12, 1997) (notice of immediate effectiveness for the listing and trading non-principal protected commodity preferred securities linked to certain commodities indices) (File No. SR–Amex–97–47); 37533 (August 7, 1996), 61 FR 42075 (August 13, 1996) (accelerated approval order for the listing and trading of the Top Ten Yield Market Index Target Term Securities (''MITTS'')) (File No. SR–Amex–96–28); 33495 (January 19, 1994), 59 FR 3883 (January 27, 1994) (accelerated approval order for the listing and trading of Stock Upside Note Securities) (File No. SR–Amex–93–40); 32840 (September 2, 1993), 58 FR 47485 (September 9, 1993) (accelerated approval order for the listing and trading of MITTS on the NYSE) (File No. SR–NYSE–93–31); and 32343 (May 20, 1993), 58 FR 30833 (May 27, 1993) (accelerated approval order for the listing and trading on non-principal protected notes linked to a single equity security) (File No. SR–Amex–92–42).

[18] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] *See* Company Guide section 107A.

[20] The companies that comprise the Select Ten Index are reporting companies under the Act.

be disseminated at least once every fifteen seconds throughout the trading day. The Commission believes that providing access to the value of the Select Ten Index at least once every fifteen seconds throughout the trading day is extremely important and will provide benefits to investors in the product.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this produce is similar to several other instruments currently listed and traded on the Amex and the NYSE.[21] In determining to grant the accelerated approval for good cause, the Commission notes that the Select Ten Index is a portfolio of highly capitalized and actively traded securities similar to hybrid securities products that have been approved by the Commission for U.S. exchange trading. Additionally, Select Ten Notes will be listed pursuant to existing hybrid security listing standards as described below. Moreover, the Index's applicable equal-dollar weighting methodology is a commonly applied index calculation method. Based on the above, the Commission finds, consistent with section 6(b) of the Act,[22] that there is good cause for accelerated approval of the product.

V. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule change (SR–Amex–2001–28), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13634 Filed 5–30–01; 8:45 am]

BILLING CODE 8010–01–M

[21] *See supra* note 17.

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44349; File No. SR–ISE–2001–14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange LLC to Conform Its Rules to Reflect Decimal Pricing

May 24, 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 23, 2001, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the ISE. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] 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 ISE proposes to amend its rules to conform to decimal pricing. The text of the proposed rule change is available at the ISE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] ISE provided written notice to the Commission on May 14, 2001 of its intent to file this proposal. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The options markets (along with the markets for the underlying equity securities) have completed their conversion to decimal pricing. The ISE is proposing amendments to its rules to reflect the fact that is has phased out fractional increments and that all pricing is now in decimals. The ISE is not proposing any changes to the current trading increments.

2. Statutory Basis

The ISE believes that the proposal is consistent with the provisions of section 6(b)(5) of the Act[6] which requires that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission

[6] 15 U.S.C. 78f(b)(5).

may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] 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 proposal is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 ISE. All submissions should refer to file number SR–ISE–2001–14 and should be submitted by June 21, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–13633 Filed 5–30–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before July 30, 2001.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Charles Mezger, Director, Office of SBIC Examinations, Small Business Administration, 409 3rd Street, S.W., Suite 6300, Washington D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Charles Mezger, Director, (202) 205–7172 or Curtis B. Rich, Management Analyst, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: Disclosure Statement.

Form No: 856.

Description of Respondents: Small business administration participating lenders.

Annual Responses: 200.

Annual Burden: 200.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Sandra Johnston, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, SW., Suite 8300, Washington D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Sandra Johnston, Program Analyst, (202) 205–7528 or Curtis B. Rich, Management Analyst, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: Applications for Business Loans.

Form No's: 4, 4–L, 4SCH. A, 4–Short, 4–I.

Description of Respondents: Applicants applying for a SBA Business Loan.

Annual Responses: 60,000.

Annual Burden: 1,187,000.

SUPPLEMENTARY INFORMATION:

Title: Request from Borrowers (Reports, Records, and Financial Statements).

Form No: 770.

Description of Respondents: Recipients of SBA Loans.

Annual Responses: 146,800.

Annual Burden: 231,800.

SUPPLEMENTARY INFORMATION:

Title: Application for Pool of Guaranteed Interest Certificates.

Form No: 1454.

Description of Respondents: SBA Loan Poll Assemblers.

Annual Responses: 450.

Annual Burden: 1,350.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–13567 Filed 5–30–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S2 covers the Deputy Commissioner, Operations (DCO). Notice is given that subchapter S2S, the Office of Electronic Services (OES) is being established under DCO. The new material and changes are as follows:

Section S2.00 The Office of the Deputy Commissioner, Operations—(Mission)

Insert the following as the 6th sentence: It oversees the coordination and implementation of SSA's policies for the electronic delivery of Agency services to the public.

Section S2.10 The Office of the Deputy Commissioner, Operations—(Organization)

Delete: Paragraph C.1. in its entirety.

Establish: I. The Office of Electronic Services (OES) (S2S).

Section S2.20 The Office of the Deputy Commissioner, Operations—(Functions)

Delete: Paragraph C.1. in its entirety.

Add: I. The Office of Electronic Services (OES) (S2S)

The Office of Electronic Services is the lead for SSA's development and implementation of electronic services. Under the direction of the Agency Chief Information Officer, the organization also works with other federal agencies on interagency electronic service delivery initiatives.

Establish Subchapter: Subchapter S2S, Office of Electronic Services

S2S.00 Mission
S2S.10 Organization
S2S.20 Functions

Section S2S.00 The Office of Electronic Services—(Mission)

The Office of Electronic Services is the lead for SSA's development and implementation of electronic services. This includes coordinating the overall Agency requirements and fostering a collaborative framework among various SSA components involved with

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17CFR 200.30–3(a)(12).

electronic service delivery (ESD). Under the direction of the Agency Chief Information Officer (CIO), the organization also works with other federal agencies on interagency ESD initiatives.

Section S2S.10 The Office of Electronic Services—(Organization)

The Office of Electronic Services, under the leadership of the Associate Commissioner for Electronic Services, includes:

A. The Associate Commissioner for Electronic Services (S2S).

B. The Deputy Associate Commissioner for Electronic Services (S2S).

C. The Immediate Office of the Associate Commissioner for Electronic Services (S2S).

D. The Center for Planning and Program Management (S2SA).

E. The Center for Internet Customer Service (S2SB).

F. The Center for Business Application Technologies (S2SC).

Section S2S.20 The Office of Electronic Services—(Functions)

A. The Associate Commissioner for Electronic Services (S2S) is directly responsible to the Deputy Commissioner for Operations for carrying out OES' mission and providing managerial direction to OES.

B. The Deputy Associate Commissioner for Electronic Services (S2S) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Electronic Services (S2S) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities.

D. The Center for Planning and Program Management (S2SA).

1. Develops and directs the business case, analysis and evaluation of electronic service delivery initiatives.

2. Provides overall program management to the planning, development, and implementation of the Agency's electronic service delivery initiatives.

3. Implements legislative, executive, and Agency directives for electronic service delivery.

4. Identifies policies that can be changed to improve SSA's service to the public.

E. The Center for Internet Customer Service (S2SB).

1. Facilitates the infrastructure to support the implementation of electronic services including management of SSA's primary Agency-level public information web site and associated applications.

2. Plans, develops, implements and analyzes the customer service needed to support the Agency's Internet business processes.

3. Plans and facilitates development of customer-centric Internet services based on research of customer demographics and preferences and customer input.

4. Works under the direction of the Agency CIO in developing the interagency partnerships and common business processes needed for electronic government.

F. The Center for Business Application Technologies (S2SC).

1. Plans, develops and implements the Public Key Infrastructure (PKI) needed to support the Agency's Internet business processes.

2. Identifies emerging technologies that can be used to improve SSA's service to the public.

3. Fosters partnerships with public and private entities to solve global electronic service delivery issues; develops a global electronic service delivery infrastructure supportive of SSA's service delivery goals.

4. Represents SSA on boards and committees charged with exploring the use of technology in providing service to the public.

Dated: May 18, 2001.

Larry G. Massanari,

Acting Commissioner of Social Security.

[FR Doc. 01–13565 Filed 5–30–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3668]

Notice of Meetings; United States International Telecommunication Advisory Committee (ITAC) and Telecommunication Development Sector (ITAC–D)

The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee. The purpose of the Committee is to advise the Department on policy and technical issues with respect to the International Telecommunication Union. Meetings will be held at the Department of State, 2201 ''C'' Street, NW, Washington, DC.

The ITAC will meet from 10 am to noon on June 5 and June 13, to continue preparations for meetings of the ITU Council. All meetings will be at the Department of State. The ITAC–D will meet from 10 am to noon on Friday, June 8 to prepare for the September meeting of ITU–D Study Groups 1 and 2.

Members of the general public may attend these meetings. Directions to meeting locations and actual room assignments may be determined by calling the Secretariat at 202–647–0965/2592. For meetings held at the Department of State: Entrance to the building is controlled; people intending to attend any of the ITAC meetings should send a E-mail to williamscd@state.gov no later than 48 hours before the meeting for preclearance. This e-mail should display the name of the meeting and date of meeting, your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, passport, U. S. Government identification card. Enter the Department of State from the C Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: May 25, 2001.

Doreen McGirr,

Director, Telecommunication Development Sector, International Communication & Information Policy, Department of State.

[FR Doc. 01–13808 Filed 5–29–01; 2:16 pm]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

[Public Notice 3685]

Privacy Act of 1974: Altered Systems of Records

Notice is hereby given that the Department of State proposes to alter six existing systems of records, STATE–08, STATE–62, STATE–63, STATE–64, STATE–65 and STATE–66 pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 522a (r)), and the Office of Management and Budget Circular No. A–130, Appendix I. These systems were integrated into the Department of State on October 1, 1999 as part of the Foreign Affairs Agencies Consolidation Act of 1998 (Pub. L. 105–277). The Department's report was filed with the Office of Management and Budget on May 16, 2001.

It is proposed that the current system STATE–62 will be renamed ''Records of the Office of Citizen Exchanges'' and STATE–65 will be renamed ''Speaker/Specialist Program Records.'' Due to the integration into the Department of State and the scope of the current systems, all six altered system descriptions will

include revisions and/or additions to all other sections. Changes to the existing system descriptions are proposed in order to reflect more accurately the Bureau of Educational and Cultural Affairs, and the Office of International Information Programs' record-keeping systems and a reorganization of activities and operations.

Any persons interested in commenting on the altered systems of records may do so by submitting comments in writing to Margaret Peppe, Chief; Programs and Policies Division; Office of IRM Programs and Services; A/RPS/IPS/PP; U.S. Department of State, SA–2; Washington, DC 20522–6001.

These systems of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The altered system descriptions, ''Educational and Cultural

Exchange Program Records, STATE–08,'' ''Records of the Office of Citizen Exchanges, STATE–62,'' ''Cultural Property Advisory Committee Records, STATE–63,'' ''Service Contributors Records, STATE–64,'' ''Speaker/Specialist Program Records, STATE–65,'' and ''Electronic Media Photographers Records, STATE–66'' will read as set forth below.

Dated: May 16, 2001.

Patrick F. Kennedy,

Assistant Secretary for the Bureau of Administration, Department of State.

STATE–08

SYSTEM NAME:

Educational and Cultural Exchange Program Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; SA–44; 301 Fourth Street, SW; Washington, DC 20547.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants, recipients and prospective recipients of Educational and Cultural Exchange grants and programs; members of the J. William Fulbright Foreign Scholarship Board; and American Executive Secretaries of Fulbright Foundations and Commissions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic information; project descriptions; evaluations of the performances of former grantees; evaluations of performing artists who may be potential grantees; copies of press releases; new clippings; information related to the grant and related correspondence; academic transcripts; letters of reference; ratings by non-governmental panel members; insurance vouchers and cards; medical clearance forms; travel itineraries; and confirmation letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of the Foreign Service); and 5 U.S.C. 301 (Management of the Department of State).

PURPOSES:

The information contained in the records of the Bureau of Educational and Cultural Affairs (ECA) is collected and maintained primarily to aid in the selection of individuals for educational and cultural exchange grants and programs, and for the administration of such grants and programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in the Educational and Cultural Exchange Program Records is used:

—To develop statistics for use in the operation of the exchange program;

—By relatives when the information is required for the benefit of the subject;

—To select individuals for the programs;

—To provide information to the news media for promotion of the Fulbright program and to confirm status of grantees);

—To disclose information to officials of foreign governments and organizations in vetting the process and selection of participants;

—By peer review committees from cooperating agencies for the ranking and rating process; and

—By ECA program officers for record keeping purposes.

Also see the ''Routine Uses'' paragraph of the Prefatory Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy; electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGERS AND ADDRESS:

Assistant Secretary for Educational and Cultural Affairs; Department of State; SA–44; 301 Fourth Street, SW; Washington, DC 20547.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Bureau of Educational and Cultural Affairs might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street, NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the Educational and Cultural Exchange Program Records to be checked. At a minimum, the individual should include: name; date and place of birth; social security number; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record, and the approximate dates which give the individual cause to believe that the Bureau of Educational and Cultural Affairs has records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records, and from published material and other reference sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

STATE–62

SYSTEM NAME:

Records of the Office of Citizen Exchanges.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; SA–44; 301 Fourth Street, SW; Washington, DC 20547.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have traveled at U.S. Government expense under Department of State grants for cultural exchange in the performance of grant requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for grants that may include applicant's name, address, telephone number, date and place of birth, citizenship, biographic data, education, current position held by grantee, organizational affiliation, grantee organization, grant number, date, destination, and purpose of travel. Other information may include social security number, bank enrollment information, visa applications with passport number, travel itineraries and grantee/post final program reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of the Foreign Service); 5 U.S.C. 301 (Management of the Department of State); and 22 U.S.C. 2451–58 (Mutual Educational and Cultural Exchange Act of 1961).

PURPOSES:

The information contained in the Records of the Office of Citizen Exchanges is collected and maintained by the Office of Citizen Exchanges for the implementation of grants for cultural exchange programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information relating to American travelers in the Records of the Office of Citizen Exchanges is used:

—For general reference for future programming purposes;

—By judges for the Jazz Ambassador Program to record findings on the technical and artistic ability of the artist;

—For administrative purposes such as requesting visas, enrolling grantee in government health insurance, authorization for deposit of funds to bank accounts and notification of travel arrangements; and

—To disclose information to officials of foreign governments and organizations before a participant is sent to that country in order to facilitate participation in programs and events.

Also see the ''Routine Uses'' paragraph of the Prefatory Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy; electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGERS AND ADDRESS:

Director, Cultural Programs Division; Bureau of Educational and Cultural Affairs; Department of State; 301 Fourth Street, SW; Washington, DC 20547.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Office of Citizen Exchanges might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street, NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the Records of the Office of Citizen Exchanges to be checked. At a minimum, the individual should include: Name; date and place of birth; social security number; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record, and the approximate dates which give the individual cause to believe that the Office of Citizen Exchanges has records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director; Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

STATE–63

SYSTEM NAME:

Cultural Property Advisory Committee Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; SA–44; 301 Fourth Street, SW; Washington, DC 20547.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former members of the Cultural Property Advisory Committee who are private citizens appointed by the President to three year terms. Members may be experts in archaeology, anthropology, ethnology or related fields, representatives of museums, or representatives of the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain curriculum vitae, appointment affidavits, Notification of Personnel Actions, Automated Clearinghouse Payment System forms, locator cards, confidential clearance memoranda, travel orders and travel vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of the Foreign Service); 5 U.S.C. 301 (Management of the Department of State); and 10 U.S.C. 2601, *et seq.*, (Convention on Cultural Implementation Act).

PURPOSE(S):

The information contained in the Records of the Cultural Property Advisory Committee is collected and maintained by the State Department in connection with its responsibility for administration of the Committee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in the Records of the Cultural Property Advisory Committee is used in the administration of the Committee and its members including, but not limited to maintaining addresses and phone numbers, processing security clearances, issuing travel authorizations and vouchers. The information may also be used to disclose information to officials of foreign governments and organizations before a member is sent to that country in order to facilitate participation in programs and events.

Also see the ''Routine Uses'' paragraph of the Prefatory Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy; electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be destroyed or retired in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Secretary for Education and Cultural Affairs; Department of State; SA–44; 301 Fourth Street, SW; Washington, DC 20547.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Cultural Property Advisory Committee might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; Department of State; 515 22nd Street NW; SA–2; Street, NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the Cultural Property Advisory Committee Records to be checked. At a minimum, the individual should include: Name; date and place of birth; social security number; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record, and the approximate dates which give the individual cause to believe that the Cultural Property Advisory Committee has records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

STATE–64

SYSTEM NAME:

Service Contributors Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; SA–44; 301 Fourth Street, SW.; Washington, DC 20547.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Freelance writers and photo-editors who are available to the Office of International Information Programs (IIP) on an intermittent, fixed-fee basis to perform services for the Office of International Information Programs, and authors of newspaper and magazine articles dealing with U.S. policies and practices in five thematic areas: Economic Security, Political Security, Democracy and Human Rights, Global Issues and Communications, and U.S. Society and Values.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of purchase orders issued to the contributors, addresses, phone numbers, specialties of contributors, data on number of times contributors have been used and fees paid for services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of the Foreign Service); and 5 U.S.C. 301 (Management of the Department of State).

PURPOSE(S):

The information contained in the Records of the Office of International Information Programs is collected and maintained to identify possible freelance contributors with the subject-matter expertise the Office of International Information Programs requires for its publications.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in the Service Contributors Records is used:

—To select freelance writers and photo-editors to produce texts and research photos for IIP publications; and

—For office reference in identifying articles and locating authors.

Also see the ''Routine Uses'' paragraph of the Prefatory

Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy; electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its

annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Copyright and Print Publications Team, IIP/T/CP; Office of International Information Programs; Department of State; SA–44; 301 Fourth Street, SW; Washington, DC 20547.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Office of International Information Programs might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street, NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the Service Contributors Records to be checked. At a minimum, the individual should include: Name; date and place of birth; social security number; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record, and the approximate dates which give the individual cause to believe that the Office of Information Programs has records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records, referrals of other freelance and photo-editor contributors, published material and other reference sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

STATE–65

SYSTEM NAME:

Speaker/Specialist Program Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; SA–44; 301 Fourth Street, SW; Washington, DC 20547.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

American specialists and experts who have participated or been considered for participation in the Speaker/Specialist Program sponsored by the Office of International Information Programs. Specialists are recruited for their expertise in addressing foreign audiences in U.S. policies and practices in any of five thematic areas: Economic Security, Political Security, Democracy and Human Rights, Global Issues and Communications, and U.S. Society and Values.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain biographic information about the speaker/specialist including education and professional experience; correspondence between the individual, the Department and overseas posts regarding the speaker's participation in the program; travel itineraries and visa documentation; grant authorization numbers and types; copies of the grant documents; cost and fiscal data; payment vouchers; Automated Clearing House (ACH) payment enrollment forms; country clearance telegrams; and where applicable, program evaluations and speaker reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 (Management of the Department of State); 22 U.S.C. 1431 *et seq.* (Smith-Mundt United States Information and Educational Exchange Act of 1948, as amended; 22 U.S.C. 2451–58 Fulbright-Hays Mutual Educational and Cultural Exchange Act of 1961, as amended; 22 U.S.C. 2651a (Organization of the Department of State); and 22 U.S.C. 3921 (Management of the Foreign Service).

PURPOSE(S):

The information contained in the Speaker/Specialist Program Records is collected and maintained by the Office of International Information Programs in the administration of its responsibility to manage the Department's Speaker/Specialist Program as provided for in the Smith-Mundt Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in the Speaker/Specialist Program Records is used or disseminated as follows:

—By program officers and assistants in implementing and managing the Speaker/Specialist Program;

—To generate grant documents and payment vouchers;

—For internal reporting and tracking of international speaking appearances;

—To generate periodic and ad hoc statistical reports in response to requests from Congress, the White House and other U.S. Government entities, e.g., the number of speakers addressing a specific issue; or the number of speakers from historically ethnic colleges and universities, and

—-To disclose information to officials of foreign governments and organizations before a participant is sent to that country in order to facilitate participation in programs and events.

Also see the ''Routine Uses'' paragraph of the Prefatory Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy; electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting

regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be destroyed or retired in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of International Information Programs; Department of State; SA–44; 301 Fourth Street, SW; Washington, DC 20547.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Office of International Information Programs might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the Cultural Property Advisory Committee Records to be checked. At a minimum, the individual should include: Name; date and place of birth; social security number; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record, and the approximate dates which give the individual cause to believe that the Office of International Information Programs has records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

STATE–66

SYSTEM NAME:

Electronic Media Photographers Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; SA–44; 301 Fourth Street, SW.; Washington, DC 20547.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Freelance photographers who have applied/expressed interest in supplying photos or providing photo coverage of events of interest to the Department. Representatives of photo agencies that have contracts with the Department for providing photos and photo services.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information about the photographers/picture agents including name, address, telephone number, fees for services and products, specialties, nature of assignment, availability of rights, deadlines and other scheduling information and usage of the photos and other visual materials by our posts abroad. Records occasionally include evaluations of assignments and products by the program coordinator/manager of the photo services in the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 (Management of the Department of State); 22 U.S.C. 1431 *et seq.* (Smith-Mundt United States Information and Educational Exchange Act of 1948, as amended); 22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of the Foreign Service).

PURPOSE(S):

The information contained in the Electronic Media Photographers Records is collected and maintained by the Electronic Media/Visual Services Division of the Office of Thematic Programs whose staff includes photo editors responsible for providing photos and other graphic images for U.S. embassies, U.S. consulates general and consulates, as well as meeting the photo needs of elements in the Office of International Information Programs. Many of these images appear on the International Information Programs web site, which is designed exclusively for foreign audiences and U.S. posts abroad.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in the Electronic Media Photographers Records is used or disseminated as follows:

—To administer contracts with photo agencies, picture archives and other institutional sources;

—To assign and coordinate the work of freelance photographers chosen to cover special events;

—To provide contract photos;

—To contact certain media, corporations and news organizations to obtain photographs and rights for distribution and reproduction to our posts abroad;

—For internal reporting, cost accounting and billing; and

—To assess the nature and distribution of demands for photo resources in the Office of International Information Programs.

Also see the ''Routine Uses'' paragraph of the Prefatory

Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy; electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be destroyed or retired in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street, NW.; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Thematic Programs; Department of State; SA–44; 301 Fourth Street, SW.; Washington, DC 20547.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Office of Information Programs might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; Department of State; SA–2; 515 22nd Street, NW.; Washington, DC 20522–6001. The individual must specify that he/she wishes the Electronic Media Photographers Records to be checked. At a minimum, the individual should include: name; date and place of birth; social security number; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record, and the approximate dates which give the individual cause to believe that the Office of International Information Programs has records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records, from recommendations by third parties, directories of photo resources, and related organizations in the private sector.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–13675 Filed 5–30–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 3686]

Privacy Act of 1974: Alteration of an Existing System of Records

Notice is hereby given that the Department of State proposes to alter an existing system of records, STATE–43, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 522a (r)), and the Office of Management and Budget Circular No. A–130, Appendix I. The alteration of STATE–43 incorporates the records of similar systems of records previously maintained by the former United States Information Agency and the former Arms Control and Disarmament Agency as a result of the consolidation of those agencies with the Department as mandated by the Foreign Affairs Agencies Consolidation Act of 1998 (Pub. L. 105–277). The Department's report was filed with the Office of Management and Budget on May 16, 2001.

It is proposed that the current system STATE–43 be renamed ''Congressional Correspondence Records'' and due to the expanded scope of the current system, the altered system description will include revisions and/or additions to all sections except the system location and categories of individuals covered by the system. Changes to the existing system description are proposed in order to reflect more accurately the Bureau of Legislative Affairs' record-keeping systems and a reorganization of activities and operations.

Any persons interested in commenting on the altered system of records may do so by submitting comments in writing to Margaret Peppe, Chief; Programs and Policies Division; Office of IRM Programs and Services; A/RPS/IPS/PP; U.S. Department of State, SA–2; Washington, DC 20522–6001.

This system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The altered system description, ''Congressional Correspondence Records, STATE–43'' will read as set forth below.

Dated: May 16, 2001.

Patrick F. Kennedy,

Assistant Secretary for the Bureau of Administration, Department of State.

STATE–43

SYSTEM NAME:

Congressional Correspondence Records.

SECURITY CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

Department of State; 2201 C Street, NW; Washington, DC 20520.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress and their constituents who request Congressional assistance in obtaining information or services from the Department of State.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, memoranda and E-mail messages between Members of Congress, Congressional Committees, and the Department including our posts abroad pertaining to Congressional and constituents' requests for information or services from the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of service); 5 U.S.C. 301 (Management of the Department of State).

PURPOSE(S):

The information in this system of records is collected and maintained by the Bureau of Legislative Affairs to fulfill its responsibility to the Congress in tracking Members' correspondence and providing appropriate responses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in this system is used:

—to respond to requests from Congress, Congressional Committees or constituents of Members of Congress for information or services from the Department; and

—to provide Department principals with information regarding trends or particular interests of Members of Congress or their constituents.

Also see the ''Routine Uses'' paragraph of the Prefatory

Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in

accordance with published records schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW.; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Legislative Operations; Department of State; 2201 C Street, NW; Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Bureau of Legislative Affairs might have records pertaining to themselves should write to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the Congressional Correspondence Records to be checked. At a minimum, the individual should include: name; date and place of birth; a brief description of the circumstances that caused the creation of the record and the approximate dates; current mailing address and zip code; signature and preferably, his/her social security number.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director; Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained from Members of Congress, constituents who requested assistance, and substantive responding offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–13676 Filed 5–30–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements To Support You Drink & Drive. You Lose. Campaign With State Associations of Chiefs of Police

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Announcement of Cooperative Agreements in conjunction with the You Drink & Drive. You Lose. Campaign to increase impaired driving enforcement with the State Associations of Chiefs of Police.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a cooperative agreement program to solicit support for the You Drink & Drive. You Lose. Campaign. NHTSA solicits applications from the State Associations of Chiefs of Police to participate in the campaign, by mobilizing law enforcement agencies to increase the enforcement of impaired driving laws. Only applications submitted by the State Association of Chiefs of Police will be considered. The State Associations of Chiefs of Police will take a leadership role in involving the law enforcement agencies in their state in increasing enforcement of impaired driving laws by participating in the mobilization periods, highly visibility enforcement, training for officers and public information and education.

DATES: Applications must be received no later than July 16, 2001 at 2 pm., Eastern Standard Time.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Ross S. Jeffries, 400 7th Street, SW., Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to, Ross S. Jeffries, Office of Contracts and Procurement at (202) 366–6283. Programmatic questions should be directed to Sandy Richardson, Traffic Law Enforcement Division, NTS–13, NHTSA, 400 7th Street, SW., Washington DC 20590 by e-mail *srichardson@nhtsa.dot.gov* or by phone (202) 366–4294. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

SUPPLEMENTARY INFORMATION:

Background

Each year, approximately 41,000 Americans die in traffic crashes and another three million are injured. On America's roads, someone is killed every 13 minutes and someone is injured every nine seconds in traffic crashes.

In 1995, law enforcement agencies, working with Federal, state and community traffic safety partners established a national goal of reducing alcohol-related traffic fatalities in America to no more than 11,000 by the year 2005. Ultimately, the goal is zero tolerance. Achieving this goal will reduce deaths caused by impaired driving by approximately 5,000 each year, saving 14 lives every day. Reducing the death toll to 11,000 represents a national commitment.

Two national mobilizations are planned yearly targeting impaired drivers. The first ''wave'' takes place the July 4th week. The second mobilization period is for a week in December. The impaired driving dates coincide with those regularly scheduled by Operation Combined Accident Reduction Effort, the organization of state police and highway patrols which schedules saturated holiday enforcement periods. By establishing these dates, law enforcement can continue to conduct enforcement campaigns around holidays and other emphasis periods and the highway safety community can partner to help publicize the events and better educate the public.

Past agency efforts have identified a number of enforcement techniques, strategies, and technology-based tools which can act to reduce the occurrence of impaired driving related crashes.

1. Sobriety Checkpoints and Saturation Patrols

Sobriety checkpoints and saturation patrols coupled with a public information and education campaign have proven to be highly effective in removing the impaired driver from the highways. Research conducted both in the U.S. and abroad indicates that the use of sobriety checkpoints has been associated with substantial reductions in impaired driving related crashes (Ross, 1992; Voas *et al.* 1985). Sobriety checkpoints involve the stopping of motor vehicles on a non-discriminatory basis in order to detect drivers who may be impaired by alcohol and other drugs. In addition, checkpoints can be instrumental in the enforcement of other traffic safety laws such as zero tolerance for youth and graduated licensing. The use of sobriety checkpoints is permitted in 41 states and the District of Columbia.

As an example of the kinds of reductions that may be achieved with a large and sustained program, the State of Tennessee conducted an intensive sobriety checkpoint effort combined with PI & E from April 1994 to March 1995 (see Lacey *et al.,* 1999). As part of this effort, state and local enforcement agencies were involved. Nearly 900 checkpoints were conducted and more than 140,000 drivers were checked for alcohol impairment. In addition to the nearly 800 DUI arrests, there were more

than 9,000 other traffic citations. Use of interrupted time series analysis indicated a 20 percent reduction over the number of impaired driving fatal crashes that would have occurred with no intervention. It was estimated that there was a reduction of 9 impaired driving fatal crashes per month due to the influence of the checkpoint program, amounting to more than 100 lives saved over the intervention period. A check of five comparison states showed non-significant increases in impaired-driving-fatal crashes over the same period.

In addition to sobriety checkpoints, another approach for apprehending impaired drivers is the use of saturation patrols. Law enforcement agencies have often concentrated traffic safety efforts in high volume crash areas in an attempt to reduce the frequency of impaired-driving-related crashes, and other traffic violations. Model guidelines for implementing saturation patrols as a means of reducing impaired driving on a community-wide basis were developed under the auspices of the International Association of Chiefs of Police, the National Sheriff's Association and NHTSA.

Data from the sixteen DUI Task Forces in Arizona indicated that 2,922 DUI arrests were made during the 2000 holiday period saturation patrols (November 22–January 1, 2001). The average BAC was .157. The officers participating in the saturation patrols also conducted 130 Drug Recognition Expert Evaluations, wrote 407 child seat violations, 1, 855 citations for non-belt use, 493 citations for minor consumption, and 194 underage DWI arrests.

2. National Mobilizations

Since the national law enforcement mobilizations have been proven to be effective in increasing seat belt use, two mobilizations periods have been established for impaired driving enforcement. The You Drink & Drive. You Lose. Campaign supports two national mobilizations each year (July 4 and the December holidays). Law enforcement agencies from around the country conducted sobriety checkpoints and saturation patrols combined with a public information and education campaign during the past three mobilization periods.

3. Impaired Driving Enforcement Training

Officers trained in the proper administration of the Standardized Field Sobriety Tests (SFST) are more successful in the detection, apprehension and conviction of the impaired driver. The Drug Evaluation and Classification (DEC) Program was developed to train law enforcement officers in the detection, apprehension, and conviction of the drug impaired driver.

Period of Support

Cooperative agreements may be awarded for a period of support for (1) year. The application should address what is proposed and can be accomplished during the funding period (12 months). Subject to the availability of funds, the agency anticipates awarding up to 5 cooperative agreements in the amount of $50,000 each, totaling $250,000. Federal funds should be viewed as seed money to assist the Associations in working with local law enforcement agencies in the development of traffic safety initiatives. NHTSA may choose to extend the period of performance under this agreement for an additional 12 months, subject to the availability of funds. If NHTSA elects to do so, it will notify the recipients within 60 days prior to the expiration of this agreement and the recipients will submit a proposal for an additional 12 months of performance.

Eligibility Requirements

In order to be eligible to participate in this cooperative agreement program, an applicant must be a State Association of Chiefs of Police, and must meet the following requirements:

—Have the ability to provide funding to law enforcement agencies in the state.
—Have written support and approval from the applicant's chief executive officer to conduct impaired driving enforcement programs to participate in and encourage local law enforcement participation in the You Drink & Drive. You Lose Campaign. (Include copy with proposal.)
—Obtain written support from the Governor's Representative or his/her designee in the State Highway Safety Office (SHSO) demonstrating that the applicant's proposal is partnered with the State's program. (Include copy with proposal.)

Application Procedure

Each applicant must submit one original and two copies of their application package to: NHTSA, Office of Contracts and Procurement (NAD–30), ATTN: Ross S. Jeffries, 400 7th Street, SW., Room 5301, Washington, DC 20590. Only complete application packages received by the due date will be considered. Submission of four additional copies will expedite processing, but is not required. Applications must be typed on one side of the page only. Applications must include a reference to NHTSA Program No. *DTNH22–01–R–05144.* The applicant shall specifically identify any information in the application for which confidential treatment is requested, in accordance with the procedures of 49 CFR Part 512, Confidential Business Information.

Only complete packages received on or before May 25, 2001 at 2:00 p.m. Eastern Standard Time will be considered.

Application Contents

The application package must be submitted with OMB Standard Form 424 (Rev. 4–88, including 424A and 424B), Application for Federal Assistance, with the required information filled in and the certifications and assurances included. While the Form 424–A deals with budget information, and section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed breakdown of the proposed costs, as well as any costs which the applicant proposes to contribute in support of this effort. The budget should be a 1–year plan. Also included shall be a program narrative statement which addresses the following:

1. A description of the project to be pursued which provides:

a. A detailed explanation of the proposed strategy to support the enforcement efforts, including methods for gaining support (both within the community and law enforcement leadership) for ''waves'' of highly publicized impaired driving enforcement and for mobilization efforts. In addition, an explanation of the strategies to fund local law enforcement agencies to participate in the national mobilizations, and to conduct ''waves'' of highly publicized impaired driving enforcement. A description of efforts to address training needs (e.g., SFST, DEC) of law enforcement jurisdictions and how training will be marketed to these jurisdictions.

b. The goals, objectives, and the anticipated results and benefits of the project (supporting documentation from concerned interests other than the applicant can be used.)

c. Written evidence of approval by the applicant's Chief Executive Officer.

d. An explanation demonstrating the need for assistance.

e. Description of any extraordinary social/community involvement.

f. A discussion of the criteria to be used to evaluate the results (*e.g.* number of citations, number of officers trained, number of sobriety checkpoints, number of saturation patrols conducted, level of earned media coverage, etc.).

2. A list of the proposed activities in chronological order to show the schedule of accomplishments and their target dates.

3. Identification of the proposed program coordinator for participation in the proposed project effort.

4. A description of the applicant's previous experience related to this proposed program effort (i.e. past participation in highly publicized enforcement or participation in the impaired driving national seat belt mobilizations).

5. A statement of any technical assistance which the applicant may require of NHTSA in order to successfully complete the proposed project.

Application Review Process and Evaluation Factors

Initially, each application will be reviewed to confirm that the applicant meets the eligibility requirements and that the application contains all of the information required by the Application Contents section of this notice. Each complete application from an eligible recipient will then be evaluated by a Technical Evaluation Committee. The applications will be evaluated using the following criteria:

1. The Potential of the Proposed Project Effort To Increase Impaired Driving Enforcement (40%)

The likeliness and feasibility of the applicant's projects to increase impaired driving enforcement by law enforcement jurisdictions. The degree to which the applicant has identified jurisdictions that might benefit from impaired driving training opportunities and effectiveness of the applicant's plan for providing that training. The impaired driving training offered must meet the standards that have been established by the International Association of Chiefs of Police (IACP) and approved by the IACP/NHTSA. Currently, the IACP/NHTSA curriculum for SFST and DEC are the only training programs that meet those standards. The overall soundness and feasibility of the applicant's approach to participating and successfully seeking law enforcement participation in mobilization efforts and public information campaigns concerning impaired driving.

2. The Applicant's Proposed Strategy for Participating and Seeking the Participation of Local Law Enforcement Agencies in the You Drink & Drive. You Lose. Campaign National Mobilizations (40%)

The likeliness and feasibility of the Association's proposal, as described in its innovative project plan, to assist smaller law enforcement agencies in participating in the You Drink & Drive. You Lose. Campaign national mobilizations. The degree to which the applicant has demonstrated a complete understanding of the requirements for successful participation in the national impaired driving mobilizations. The overall soundness and feasibility of the applicant's proposed strategy and demonstrated ability to involve and coordinate this project with smaller law enforcement agencies.

3. The Applicant's Ability To Demonstrate Support and Coordination With Local Government and the State Highway Safety Office (15%)

The degree to which the proposal describes efforts and commitment to obtain the support from local government officials throughout the State. The likeliness and feasibility of the applicant's proposal for reaching local and state government executives throughout the state, including suggested methods for generating interest, making initial contacts and reasons for taking the proposed approach as opposed to others.

4. The Adequacy of the Organizational Plan for Accomplishing the Proposed Project Effort Through the Experience and Technical Expertise of the Proposed Personnel (5%)

Program management and technical expertise will be estimated by reviewing the qualifications and experience of the proposed personnel, and the relative level of effort of the staff. Consideration will be given to the adequacy of the organizational plan for accomplishing the proposed project effort. Consideration will also be given to the Association's resources and how it will provide the program management capability and personnel expertise to successfully perform the activities in its plan.

NHTSA Involvement

The NHTSA will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of the cooperative agreement and to coordinate activities between the selected State Associations of Chiefs of Police and NHTSA;

2. Provide information and technical assistance from government sources, within available resources and as determined appropriate by the COTR;

3. Provide liaison between the selected State Associations of Chiefs of Police and other government and private agencies as appropriate; and

4. Stimulate the exchange of ideas and information among cooperative agreement recipients through periodic meetings.

Terms and Conditions of Award

1. Prior to award, the recipient must comply with the certification requirements of 49 CFR Part 29—Department of Transportation Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

2. During the effective period of the cooperative agreement(s) awarded as a result of this notice, the agreement(s) shall be subject to NHTSA's General Provisions for Assistance Agreements (7–95).

Reporting Requirements

1. The recipient shall submit brief quarterly reports documenting the project effort to date, which will include information on accomplishments, obstacles and problems encountered, and noteworthy activities. Quarterly reports shall be due 15 days after the end of each quarter, and a final report summarizing the project effort shall be due within 30 days after the completion of the project. An original and three copies of each of these reports shall be submitted to the COTR.

2. The recipient may be requested to conduct an oral presentation of project activities for the COTR and other interested NHTSA personnel. For planning purposes, assume that these presentations will be conducted at the NHTSA Office of Traffic and Injury Control Programs, Washington, DC or at a conference, as identified by the COTR. An original and three copies of briefing materials shall be submitted to the COTR.

Rose A. McMurray,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 01–13641 Filed 5–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedure governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before July 2, 2001.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590 or at http://dms.dot.gov.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on May 24, 2001.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12682–N	RSPA–01–9657	EP Container Corp. Santa Fe Springs, CA.	49 CFR, 173.12(b)(2)(i) ..	To authorize the manufacture, mark, sale and use of certain UN 11G Fiberboard Intermediate Bulk Containers (IBC), for use as the poison pack outer packaging when transporting certain hazardous materials. (mode 1)
12690–N	RSPA–01–9656	Air Liquide America Corporation, Houston, TX.	49 CFR, 173.304(a)(2), Note 2.	To authorize the transportation in commerce of DOT specification 3AA cylinders having a water capacity of approximately 950 pounds, which when filled, would exceed the 150 pound limit for use in transporting chlorine. (mode 1)
12691–N	RSPA–01–9659	TITEQ Corporation, Palmdale, CA.	49 CFR, 173.302(a)(2), 175.3.	To authorize the manufacture, mark, sale and use of non-DOT specification cylinder conforming to DOT Specification 3HT cylinder for use in transport certain hazardous materials classed in Division 2.2. (modes 1, 2, 4)
12694–N	RSPA–01–9658	Illbruck Sealant Systems, Inc., Minneapolis, MN.	49 CFR, 173.306(a)(3)(v)	To authorize an alternative testing method for specifically designed aerosol containers used in transporting Division 2.1 material. (modes 1, 2, 3)
12695–N	RSPA–01–9654	Global Composites International, Inc., San Dimas, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize the manufacture, mark, sale and use of non-DOT specification cylinders for use in transporting certain Division 2.1 and 2.2 hazardous materials. (modes 1, 2, 3, 4)
12696–N	RSPA–01–9650	Phibro-Tech, Inc., Fort Lee, NJ.	49 CFR 173.28(b)(7)	To authorize the transportation in commerce of 30 to 50 gallon UN 1H1/X or Y drums containing a hazardous material not transported under the exclusive control of the refiller. (mode 1)
12698–N	RSPA–01–9652	Integrated Environmental Services, Inc., Atlanta, GA.	49 CFR, 173.115(a)(b), 173.304(a), 173.34(d)(e).	To authorize the manufacture, mark, sale and use of non-DOT specification full open head, steel/stainless steel salvage cylinders as an overpack in transporting damaged or leaking gas cylinders containing Class 2 material. (modes 1, 3, 4)
12701–N	RSPA–01–9647	Fuel Cell Components & Integrators, Inc., Hauppauge, NY.	49 CFR, 173.302, 173.304.	To authorize the transportation in commerce of non-DOT specifications cylinders comparable to Specification 4E for use in transporting compressed gas. (modes 1, 2)
12702–N	RSPA–01–9660	Los Crespos Cylinders, Anasco, PR.	49 CFR, 172.203(a), 172.301(c), 173.34(1) subparagraphs 1, 2, and 3.	To authorize the repair and rebuild of DOT–4B series cylinders for use in transporting hazardous materials as presently authorized. (modes 1, 2, 3)
12703–N	RSPA–01–9646	Aeronex, Inc., San Diego, CA.	49 CFR, 173.212, 173.213.	To authorize the manufacture, mark, sale and use of non-DOT specification pressure vessels for use in transporting self heating solid, inorganic, n.o.s. material. (modes 1, 2, 3, 4)
12706–N	RSPA–01–9731	Raufoss Composites AS, Raufoss, NO.	49 CFR, 173.201, 173.301, 173.304, 173.34, 178.35,.	To authorize the transportation in commerce of foreign non-DOT specification composite LPG cylinders. (modes 1, 2, 3)

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12708–N	RSPA–01–9741	Ameristar Air Cargo, Inc., Dallas, TX.	49 CFR 173.62	To authorize the transportation in commerce of certain Division 1.1, 1.2, 1.3 and 1.4 explosives which are forbidden or exceed quantities authorized for transportation by cargo aircraft. (mode 4)

[FR Doc. 01–13563 Filed 5–30–01; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application has been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before June 15, 2001.

Address Comments To: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington, DC or at http://dms.dot.gov.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on May 23, 2001.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of exemption
4453–M		Dyno Nobel, Inc., Salt Lake City, UT[1]	4453
6614–M		HCI-Clearwater Chemical Corporation, Clearwater, FL[2]	6614
6805–M		Air Liquide America Corporation, Houston, TX[3]	6805
7823–M		Honeywell International, Inc., Morristown, NJ[4]	7823
8554–M		Dyno Nobel, Inc., Salt Lake City, UT[5]	8554
8723–M		Dyno Nobel, Inc., Salt Lake City, UT[6]	8723
8865–M		Carleton Technologies, Inc., Orchard Park, NY[7]	8865
9729–M		Honeywell International, Inc., Morristown, NJ[8]	9729
10481–M		M1 Engineering Limited, Bradford, West Yorkshire, UK[9]	10481
10945–M		Structural Composites Industries, Pomona, CA[10]	10945
10977–M		Federal Industries Corporation, Plymouth, MN[11]	10977
11054–M		Welker Engineering Company, Sugar Land, TX[12]	11054
11194–M		Carleton Technologies, Inc., Pressure Tech. Div., Glen Burnie, MD[13]	11194
11516–M		CRC Industries, Inc., Warminster, PA[14]	11516
11579–M		Dyno Nobel, Inc., Salt Lake City, UT[15]	11579
12296–M	RSPA–99–5879	Clean Earth Systems, Inc., Tampa, FL[16]	12296

[1] To modify the exemption to allow for the transportation of an additional Division 1.5D explosive in a non-DOT specification bulk, hopper-type tank.

[2] To modify the exemption to authorize the transportation of an additional Class 8 material in a non-DOT specification polyethylene bottle, packed inside a high density polyethylene box.

[3] To modify the exemption to authorize the use of DOT Specification 3A and 3AA cylinders as additional packaging for the transportation of Division 2.1 and 2.3 materials and a language clarification of the low pressure cylinders for transporting carbon monoxide.

[4] To modify the exemption to allow for the transportation of a Class 8 material in non-DOT specification welded stainless steel cylinders complying with DOT Specification 4BW cylinders with certain exceptions.

[5] To modify the exemption to allow for the transportation of an additional Division 1.5D explosive in DOT Specification MC–306, MC–307 and MC–312 cargo tanks.

[6] To modify the exemption to allow for the transportation, in bulk, of an additional Division 1.5D explosive in certain authorized motor vehicles and portable tanks.

[7] To modify the exemption to allow for the refilling of the gas storage system consisting of a non-DOT specification cylinder with pyrotechnic relief devices for the transportation of helium.

[8] To modify the exemption to allow for the transportation of a Division 5.1 material in Type 304L stainless steel cylinders complying with the requirements of DOT Specification 4BW.

[9] To modify the exemption to authorize a design change of the non-DOT specification vacuum insulated portable tank, in an ISO frame, for the transportation of certain refrigerated liquids.

[10] To modify the exemption concerning the requalification of the non-DOT specification fully wrapped carbon-fiber reinforced aluminum lined cylinders from a 3-year to a 5-year requalification interval for the transportation of various flammable and non-flammable gases.

[11] To modify the exemption to eliminate the requirement that the intermediate packaging be placed in a metal can for the transportation of limited quantities of solid hazardous materials in specifically designed combination packaging without hazard labels or placards.

[12] To modify the exemption to authorize an increase to the outside diameter of the non-DOT specification cylinder, conforming to 3A specification, for use in shipment of Division 2.1, 2.3 and Class 3 materials.

[13] To modify the exemption concerning the requalification of the non-DOT specification fully wrapped carbon-fiber reinforced aluminum lined cylinders from a 3-year to a 5-year requalification interval for the transportation of various flammable and non-flammable gases.

[14] To modify the exemption to authorize the transportation of 1,1-Difluoroethane, R152A, reclassed as a Consumer Commodity, in certain DOT Specification 2Q containers; relief from the marking requirements for this material.

[15] To modify the exemption to authorize the addition of Divison 1.1B, 1.4B, 1.1D and 5.1 materials to be transported on the same cargo unit with Division 1.5D explosives, without a common wall divider and the addition of truck designs for the transportation of these materials.

[16] To modify the exemption to authorize an inner polyethylene liner for the UN 11G fiberboard intermediate bulk container having a minimum thickness of six (6) mils for the transportation of various classes of hazardous materials.

[FR Doc. 01–13564 Filed 5–30–01; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34033]

Canadian Pacific Railway Company—Trackage Rights Exemption—CSX Transportation, Inc.

CSX Transportation, Inc. (CSXT), has agreed to grant to Canadian Pacific Railway Company (CPR) limited overhead trackage rights located entirely within the City of Detroit, MI. The trackage consists of a new connection CSXT is constructing from Consolidated Rail Corporation's Michigan Line, at milepost 5.65 +/−, to CSXT's line of railroad known as the Detroit Subdivision, milepost CH 7.5 +/−. In addition, CSXT is granting trackage rights to CPR over the Detroit Subdivision, from milepost CH 7.5 +/− to milepost 13.5 +/−, along with trackage at Oak Intermodal Facility necessary to effect the delivery of trains, including necessary head and tail room, for a total of approximately 6.3 +/− miles.[1]

The transaction is scheduled to be consummated on or after May 25, 2001. The trackage rights will allow for a more efficient routing of CPR's trains into the Oak Intermodal Facility.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its United States employees. CPR states that it does not anticipate that any CPR employees will be affected by the transaction but it recognizes that the protective conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980) are applicable to this proceeding.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34033, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Diane P. Gerth, Esq., Leonard, Street and Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: May 24, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–13629 Filed 5–30–01; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34044]

Grand Trunk Western Railroad Incorporated—Trackage Rights Exemption—Indiana Harbor Belt Railroad Company

Indiana Harbor Belt Railroad Company (IHB) has agreed to grant overhead trackage rights to Grand Trunk Western Railroad Incorporated (GTW) over IHB's rail line extending between milepost 15.2 in Blue Island, IL, and milepost 39.3 in Franklin Park, IL, a total distance of 24.10 miles.

The transaction is scheduled to be consummated on or after May 23, 2001.

The purpose of the trackage rights is to facilitate economical and efficient operation of GTW's overhead traffic from Blue Island to Franklin Park and to interchange traffic to the Soo Line Railroad Company, d/b/a Canadian Pacific Railway, at Bensenville in Franklin Park.

Any employees affected by the subject transaction will be protected by the labor conditions prescribed in *Norfolk and Western Ry. Co.—Trackage Rights-BN,* 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry. Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34044, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Cynthia A. Bergmann, CN/IC Railroad Company, 455 North Cityfront Plaza Dr., Chicago, IL 60611–5318.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: May 22, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–13428 Filed 5–30–01; 8:45 am]
BILLING CODE 4915–00–P

[1] A redacted version of the Trackage Rights Agreement between CSXT and CPR (agreement) was filed with the verified notice of exemption. An unredacted version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for a protective order. That motion has been granted in a separate decision and a protective order in this proceeding is being served on May 29, 2001.

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—Amwest Surety Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 16 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000 at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6507.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 65 FR 40873, June 30, 2000.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: May 23, 2001.

Judith R. Tillman,

Assistant Commissioner, Financial Operations, Financial Management Service.

[FR Doc. 01–13628 Filed 5–30–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0188]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine eligibility, prescribe and authorize prosthetic devices, glasses, claims for reimbursement for adaptation of living quarters and automotive equipment.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 30, 2001.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *ann.bickoff@mail.va.gov.* Please refer to ''OMB Control No. 2900–0188'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles

a. Request to Submit Estimate, Form Letter 10–90.

b. Loan Follow-up Letter, Form Letter 10–426.

c. Veterans Application for Assistance in Acquiring Home Improvement and Structural Alterations, VA Form 10–0103.

d. Application for Adaptive Equipment Motor Vehicle, VA Form 10–1394.

e. Prosthetic Authorization for Items or Services, VA Form 10–2421.

f. Prosthetic Service Card Invoice, VA Form 10–2520.

g. Prescription and Authorization for Eyeglasses, VA Form 10–2914.

OMB Control Number: 2900–0188.

Type of Review: Extension of a currently approved collection.

Abstract:

a. Form Letter 10–90 is prepared by the VHA and issued to a contractor of the veteran's choice in order to solicit a price quote for a prosthetic device.

b. Form Letter 10–426 is used to inventory prosthetic devices loaned to eligible veterans. The form letter inventories the loaned items and solicits information from the beneficiary to determine the current status, the need to replace, extend the loan period or terminate the loaned items.

c. VA Form 10–0103 is used to determine eligibility/entitlement and reimbursement of individual claims for home improvement and structural alterations.

d. VA Form 10–1394 is used to determine eligibility/entitlement and reimbursement of individual claims for automotive adaptive equipment.

e. VA Form 10–2421 is used for the direct procurement of new prosthetic appliances and/or services and standardizes the direct procurement authorization process. The form eliminates the need for separate purchase orders, expedites patient treatment and improves the delivery of prosthetic services.

f. VA Form 10–2520 is used by the commercial vendors after completing repairs authorized for veterans by their Prosthetic Service Card to request payment by VA. The form standardizes repair/treatment invoices for prosthetic services rendered and standardizes the verification of these invoices. The veteran certifies that the repairs were necessary and satisfactory. This form is furnished to vendors upon request.

g. VA Form 10–2914 is used as a combination prescription, authorization and invoice. It allows veterans to purchase their eyeglasses directly. If the form is not used, the provisions of providing eyeglasses to eligible veterans may be delayed.

Affected Public: Business or other for profit and Individuals or households.

Estimated Total Annual Burden: 37,079 hours.

a. Form Letter 10–90—1,875.
b. Form Letter 10–426—242.
c. VA Form 10–0103—583.
d. VA Form 10–1394—2,711.
e. VA Form 10–2421—16,667.
f. VA Form 10–2520—3,334.
g. VA Form 10–2914—11,667.

Estimated Average Burden Per Respondent:

a. Form Letter 10–90—5 minutes.
b. Form Letter 10–426—1 minute.
c. VA Form 10–0103—5 minutes.
d. VA Form 10–1394—15 minutes.
e. VA Form 10–2421—4 minutes.
f. VA Form 10–2520—5 minutes.
g. VA Form 10–2914—4 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 519,844.

a. Form Letter 10–90—22,500.
b. Form Letter 10–426—14,500.
c. VA Form 10–0103—7,000.
d. VA Form 10–1394—10,844
e. VA Form 10–2421—250,000.
f. VA Form 10–2520—40,000.
g. VA Form 10–2914—175,000.

Dated: May 22, 2001.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–13624 Filed 5–30–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA)

ACTION: Report of New System of Records—Program Evaluation Research Data Records—VA.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs is establishing a system of records entitled ''Program Evaluation Research Data Management Records—VA'' (107VA008B). VA is establishing the system to support data collection, storage and analysis to conduct agency program evaluations undertaken under the authority of 38 U.S.C. 527 as described in 38 CFR Section 1.15.

DATES: Comments on the establishment of this system of records must be received no later than July 2, 2001. If no public comment is received, the new system will become effective July 2, 2001.

ADDRESSES: Submit written comments to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulation Management, Room 1158, between 8 a.m. and 4:30 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. H. Raymond Wilburn, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 273–7509.

SUPPLEMENTARY INFORMATION:

Background: The purpose of the system of records is to provide a repository for the individually identified and retrieved data about VA beneficiaries, including veterans, survivors, dependents, service persons, and reservists, and individuals eligible for VA benefits to perform program evaluations as described in 38 CFR 1.15. Within VA, most program evaluations are conducted through contracts to enhance third-party objectivity; thus, much of the data collected is through the research activities of contractors. The records include information provided by program beneficiaries, persons eligible for but not using VA programs, VA program files from the Veterans Health Administration (VHA), Veterans Benefit Administration (VBA), National Cemetery Administration (NCA), and other organizations within VA, relevant data published by other Federal agencies, and information obtained in the course of routine work. Quality assurance information that is protected by 38 U.S.C. 5705 and 38 CFR 17.500–17.511 is not included in this system of records.

It is VA's policy that the data and information collected be used to evaluate the various programs within the Department. Data and information may also be used for longitudinal research purposes and follow-up to evaluate the long-term effects of program usage, although VA currently has no plans to do so.

This data and information may also be disclosed to:

1. The appropriate Federal, State, local, or foreign agency charged with the responsibility of investigating violations of civil or criminal law or regulations arising by statute, regulation, rule, or order;

2. A Congressional office from the record of an individual in response to an inquiry;

3. The National Archives and Records Administration (NARA) in records management inspections;

4. The Department of Justice and United States attorneys in defense or prosecution of litigation involving the United States;

5. A Federal department or agency; or

6. Directly to a contractor or subcontractor of a Federal department or agency for the purpose of conducting research. When disclosure of this data or information is made directly to a contractor, VA may impose applicable conditions on the department, agency, and/or contractor to insure the appropriateness of the disclosure to the contractor.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director, Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: May 15, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

107VA008B

SYSTEM NAME:

Program Evaluation Research Data Records—VA

SYSTEM LOCATION:

Records are maintained at VA Central Office, Office of Policy and Planning (008B), 810 Vermont Avenue, NW., Washington, DC 20420, and in the custody of contractors or subcontractors of VA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning program beneficiaries, individuals eligible for benefits, applicants for benefits, and members of their immediate families.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information related to:

1. Medical (such as diagnoses, prescriptions, and patient visits) and non-medical benefits program usage records and reports of contact about program benefits usage with individuals or groups.

2. Data on beneficiary, eligible, and applicant demographics, including

identifying information (such as name, date of birth, age, sex, social security number, taxpayer identification number); address information (for example, home and/or mailing address, home telephone number, emergency contact information such as name, address, telephone number, and relationship); information related to training, education, and continuing education (for example, name and address of schools and dates of attendance, courses attended and scheduled to attend, type of degree, certificate, grades); information related to military service and status; technical skills acquired, employment information, and income.

3. Any other statistical data regarding the interaction and/or participation of VA beneficiaries, eligibles, and applicants in VA programs.

To the extent that records contained in the system include information protected by 38 U.S.C. 7332 (such as medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus), that information cannot be disclosed under a routine use unless there is also specific statutory authority permitting disclosure.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, section 527 (b).

PURPOSE(S):

VA collects and maintains the records in this system of records to evaluate on a continuing basis the effectiveness of all programs authorized under Title 38 U.S.C., in achieving program goals in general, including achieving such goals in relation to their cost, and their structure and mechanisms for delivery of services, as well as their effect on related programs. Data may also be used for longitudinal research purposes and follow-up to evaluate the long-term effects of program usage.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data and information may be disclosed for routine uses as indicated below:

1. In the event that a record maintained by VA to carry out its functions indicates a violation or potential violation of civil or criminal law or regulations arising by general statute or particular program statute, regulation, rule, or order, information may be disclosed at VA's own initiative to the appropriate Federal, State, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation, or order. However, names and addresses of veterans and their dependents will be released only to federal entities.

2. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

3. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of 44 U.S.C.

4. Disclosure may be made to the Department of Justice and United States attorneys in defense or prosecution of litigation involving the United States.

5. Disclosure of name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents may be made to: (a) A Federal department or agency, at the written request of the head or designee of that agency or (b) directly to a contractor or subcontractor of a Federal department or agency for the purpose of conducting Federal research necessary to accomplish a statutory purpose of an agency.

6. Disclosure may be made to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, microfilm, magnetic tape, disk, or laser optical media.

RETRIEVABILITY:

Records are retrieved by name, social security number, or other assigned identifiers of the individuals on whom they are maintained.

SAFEGUARDS:

1. Access to VA working and storage areas is restricted to VA employees on a ''need-to-know'' basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Scrambling algorithms are used to protect unique personal identifiers such as social security numbers. Generally, VA file areas are locked after normal duty hours and the facilities are protected from outside access by the Federal Protective Service or other security personnel.

2. Access to electronic files stored in personal computers is limited to only that information in the file which is needed in the performance of employees' official duties through use of individually unique passwords. Access by Office of Inspector General (OIG) staff conducting an audit or investigation is controlled in the same manner. Access to paper documents and information on automated storage media is limited to employees who have a need for the information in the performance of their official duties.

3. Contractors and subcontractors are required to maintain the same level of security as VA for records in their custody.

RETENTION AND DISPOSAL:

Paper records and information stored on electronic storage media are maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Official responsible for policies and procedures: Director, Program Evaluation Service, Office of Policy and Planning (008B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Officials maintaining the system: Program Evaluation staff (008B) and supporting contractors.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them should contact the system manager. Inquiries should include the person's full name, social security number, date(s) of contact, and return address.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of records in this system may write, call or visit the Office of Policy and Planning (008B), VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the individual or guardian, other Federal agencies, or VA program operation files from the Veterans Health Administration (VHA), Veterans Benefits Administration

(VBA), National Cemetery Administration (NCA), and other organizations within VA.

[FR Doc. 01–13625 Filed 5–30–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of Amendment to System of Records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled ''Vietnam Veterans Readjustment Counseling Program—VA'' (64VA116) as set forth in the **Federal Register** 46 FR 9844 dated 1/29/81 and as amended in 56 FR 26186 dated 6/6/91. VA is amending the system by revising the System Name and the paragraphs for System Location, Categories of Individuals Covered by the System, Categories of Records in the System, and Policies and Practices for Storing, Retrieving, Retaining, and Disposing of Records in the System, including Storage, Retrievability and Safeguards. VA is republishing the system notice in its entirety at this time.

DATES: Comments on the amendment of this system of records must be received no later than July 2, 2001. If no public comment is received, the amended system will become effective July 2, 2001.

ADDRESSES: Written comments concerning the proposed new system of records may be submitted to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (727) 320–1839.

SUPPLEMENTARY INFORMATION: The name and number of the system is changed from ''Vietnam Veterans Readjustment Counseling Program-VA'' (64VA116) to ''Readjustment Counseling Service (RCS) Vet Center Program-VA'' (64VA15). The change in name will more accurately reflect the broader group of veterans receiving services and the environment in which the services are delivered.

For purposes of this notice changes have been made to update the following sections: The System Location; Categories of Individuals Covered by the System; Categories of Records in the System; and Policies and Practices for Storing, Retrieving, and Disposing of Records in the System. Changes in the system location section reflect the fact that some Vet Centers have relocated to new addresses, and that the total number of Vet Centers has increased since the last notice was published. Changes in the law extending eligibility for readjustment counseling at Vet Centers to all veterans who served in any war or armed conflict necessitated the changes to the categories of individuals covered by the system. No new categories of information will be collected by this system of records. Changes to this section were to more accurately clarify the types of demographic and clinical information collected. As previously, this system of records will be stored in secure files at the Vet Centers, but changes in the law now require the records to be retained for 50 years after the date of last activity. Changes to the latter two sections also reflect advances in computer technology.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: May 11, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

64VA15

SYSTEM NAME:

Readjustment Counseling Service (RCS) Vet Center Program—VA.

SYSTEM LOCATION:

(a) Counseling Folder: Maintained at each individual Vet Center providing readjustment counseling throughout the country. The locations of all Vet Centers providing readjustment counseling are listed in VA Appendix 2 of the Biennial Privacy Act Issuances publication.

(b) Client Information File: Certain information extracted from the counseling folder is stored on stand-alone personal computers at each Vet Center, each of the seven RCS regional managers' offices, and the RCS national data coordinator's office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eligible veterans who request and/or are provided readjustment counseling, including veterans' family members and/or other persons of significant relationship to the veteran who are eligible. Eligibility for readjustment counseling at Vet Centers includes any veteran who served in the military in a theater of combat operations during any period of war, or in any area during a period in which armed hostilities occurred. Family members are also eligible for readjustment counseling to the extent necessary to assist the veteran.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) *Counseling Folder:* All written intake forms, applications, progress notes and demographic and clinical documentation deemed necessary to provide quality counseling and continuity of care by the counselors and/or program officials. This would include all information collected for the computerized database. (b) Client Information File: Unique veteran identification number; social security number; Vet Center team number; marital status; gender; birth date; service dates; branch of service; veteran eligibility information; theater of operation; service-connection; discharge; referral source; visit information and treatment; and other statistical information about services provided to that veteran.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Section 1712A.

PURPOSE(S):

The purpose of this system of records is to collect and maintain all demographic and clinical information required to conduct a psychological assessment, to include a military history, and provide quality readjustment counseling to assist veterans resolve war trauma and improve their level of post-war functioning.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(a) Counseling Folder: Paper documents stored in file folders. (b) Client Information File: Stored on stand-alone personal computer hard drives and any backup media.

RETRIEVABILITY:

(a) Counseling Folder: Filed or indexed alphabetically by last name or unique Client Number.

(b) Client Information File: Indexed by Vet Center Number in conjunction with unique Client Number and social security number.

SAFEGUARDS:

(a) Counseling Folder: Access to records at Vet Centers will be controlled by Vet Center staff during working hours. During other hours, records will be maintained in locked file cabinets. In high crime areas, Vet Center offices are equipped with alarm systems. (b) Client Information File: The computerized file is in a stand-alone personal computer and access to records is for authorized Vet Center personnel. Access is achieved on a need-to-know basis with a password. Computer security is in compliance with RCS and VA computer security policy and protocol. All computers are password protected and stored inside the locked Vet Center.

RETENTION AND DISPOSAL:

(a) Counseling Folder: The records will be retained at the Vet Center for 50 years after the date of last activity. Destruction of counseling folders will be by shredding.

(b) Client Information File: Maintained for the duration of the program. Destruction will be by deleting all information on all Vet Center, RCS regional manager's office, and the RCS national data coordinator's office stand-alone personal computers containing the program database.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Readjustment Counseling Officer (15), VA Central Office, 810 Vermont Ave, NW., Washington, DC 20420.

NOTIFICATION PROCEDURE:

A veteran who wishes to determine whether a record is being maintained by the Readjustment Counseling Service Vet Center Program under his or her name or other personal identifier or wishes to determine the contents of such records should submit a written request or apply in person to: (1) The Team Leader of the Vet Center, or the RCS Regional Manager having supervisory responsibility for the Vet Center, with whom he or she had contact, or (2) the Chief Readjustment Counseling Officer (15), VA Central Office, 810 Vermont Ave, NW, Washington, DC 20420. Inquiries should include the individual's full name and social security number.

RECORD ACCESS PROCEDURES:

An individual (or duly authorized representative of such individual) who seeks access to or wishes to contest records maintained under his or her name or other personal identifier may write, call or visit the above named individuals.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

(1) Relevant forms to be filled out by Vet Center team members on first contact and each contact thereafter; counseling sessions with veterans and other eligible counselees. (2) Other VA and Federal agency systems.

[FR Doc. 01–13687 Filed 5–30–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
May 31, 2001

Part II

Department of Labor

Employment and Training Administration

Resource Sharing for Workforce Investment Act One-Stop Centers: Methodologies for Paying or Funding Each Partner Program's Fair Share of Allocable One-Stop Costs; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Resource Sharing for Workforce Investment Act One-Stop Centers: Methodologies for Paying or Funding Each Partner Program's Fair Share of Allocable One-Stop Costs

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This final notice is intended to provide guidance on resource sharing methodologies for the shared costs of a One-Stop service delivery system, which is required to be established under the Workforce Investment Act of 1998 (WIA) for a number of Federal employment and training programs. The guidance has been revised, in part, based on the comments received on the notice published in the **Federal Register** on June 27, 2000. In order to effectively present this concept, this document discusses the two distinctly different concepts of cost allocation and resource sharing. We anticipate that the primary users of this guidance will be the financial and accounting staff, as well as auditors, of the One-Stop partner programs and the One-Stop operators. However, we also expect that this guidance will have a much broader audience and will provide program operators and others with a fuller understanding of cost allocation principles and possible ways through which each partner program can pay for its fair share of common One-Stop costs.

As the participating programs have come together to work out the details of service delivery in a One-Stop setting, a number of questions have arisen about how costs can be allocated and resources shared. This notice provides general guidance that all One-Stop centers and their partner programs will be able to follow in establishing their own system for cost allocation and resource sharing. It describes ways to identify and determine One-Stop shared costs and, as a separate issue, describes alternative ways to pay for and fund these costs. This guidance is intended to be used in conformance with WIA requirements and the requirements applicable to each of the partner programs. It is expected that the principles included herein will be used to meet the needs of both individual One-Stop centers and the local One-Stop system as a whole. This framework may not be applicable for all One-Stop settings, and additional guidance will be provided as needed.

This notice is the result of a collaborative effort involving representatives from the Departments of Agriculture, Education, Health and Human Services, as well as the Department of Labor's Employment and Training Administration, Office of Cost Determination and Office of Inspector General. The Federal partners that participated in the preparation of this paper, as well as the Office of Management and Budget, accept the principles discussed herein as appropriate cost allocation and resource sharing guidance for WIA One-Stop centers.

EFFECTIVE DATE: May 31, 2001.

ADDRESSES: All comments received during the comment period following the publication of the initial guidance (65 FR 39760, *et seq.*) are available for public inspection and copying during normal business hours at the Employment and Training Administration, Office of Financial and Administrative Management, 200 Constitution Avenue, NW., Room N–4716, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. Donahue, Jr. at 202–693–3157 (This is not a toll-free number) or 1–800–326–2577 (TDD). This document will also be found at the website—http://usworkforce.org after publication.

SUPPLEMENTARY INFORMATION:

I. Summary and Explanation

This section contains a discussion of the comments received on the initial guidance during the comment period. We received a total of 103 comments from twenty-two different entities. There was some duplication of comments including a virtually identical letter with five comments sent by two different entities. Five of the entities submitting comments were units of federal agencies (one—U.S. Department of Education, two—U.S. Department of Labor, and two—U.S. Department of Health and Human Services); five of the commenting entities represent vocational rehabilitation services programs; five of the commenting entities represent adult and vocational education programs; five of the commenting entities represent the WIA title I–B program; two of the commenting entities represent programs for older individuals; two of the commenting entities represent the temporary assistance for needy families program, and two of the commenting entities were unions. Some of the twenty-two entities are counted in multiple categories in the previous sentence.

A number of commenters suggested that the document ought to include both more examples and more detail for the examples provided. This notice is intended to outline a basic framework for cost allocation and resource sharing that would be acceptable to all of the federal partner program agencies. We intend to provide more detailed examples in a One-Stop system financial management technical assistance guide. The process for development of the cost allocation and resource sharing section of the technical assistance guide will provide a forum through which States and local One-Stop systems that have implemented successful cost allocation and resource sharing procedures and/or those that have identified potential pitfalls will share that information as ETA proceeds with the development of the guide.

A few commenters indicated that there will be programs that are linked to the One-Stop centers through electronic or other technology-based means only.

These commenters suggest the need for more specific guidance or examples for such situations. One of these commenters also expressed a desire to see examples for satellite and affiliated sites. As indicated in the previous paragraph, ETA anticipates that it will include more specific examples in its technical assistance guide. However, it should be noted that the costs of computer-based, telephonic or other technological linkages that are shared by partner programs should be allocated to those partner programs based on the benefits derived therefrom in accordance with the basic guidance presented in this paper.

We received several comments that suggested that administrative cost limits of other programs (e.g., the Carl Perkins five percent (5%) limit) would preclude them from contributing what is perceived to be an open ended percentage share of the common/shared costs of the One-Stop. One commenter suggested that the guidance could be interpreted in a way that would result in a partner paying for costs that are unallowable under its program. Some of the comments suggested that the only way that their program could participate was by establishing a fixed predetermined amount of contribution in advance. While it may be true that many of the shared costs will be classified as administrative under the individual partner programs, it should also be noted that there are many program activities that could be integrated and treated as common One-Stop costs. As discussed in other sections of this paper, the efficiencies of scale that will result from the process of

integrating the common activities and costs of the several partner programs should result in reduced costs, including reduced administrative costs, for the individual partner programs. Whatever the nature of the shared cost (program or administrative, direct or indirect, allowable or unallowable), each partner program must be assessed its proportionate share based on the benefit received by that program. Also, this paper clearly indicates that no partner may use federal funds to pay for a cost in violation of its statutory and regulatory provisions. Therefore, it may be necessary for local One-Stops to supplement the federal resources with non-federal resources. While it may be necessary for the partner programs to identify the limits of their ability to contribute to the common costs of the One-Stop, in no case would it be proper for a predetermined budgeted amount to be set as the actual cost for any program. Cost allocation is always based on actual costs, which may be greater or less than the budget planning levels.

One commenter thought that the statement in this guidance that the One-Stop budget does not need to be included in the MOU was contrary to the provisions at WIA section 121(c)(2) and the regulation at 20 CFR 662.300. Both of those provisions require that the MOU include a description of the methods for funding the costs of program services and the operating costs of the One-Stop, but they do not require the inclusion of a budget in the local MOU. If a local area chooses to include its One-Stop budget in the MOU, it may do so. However, care should be taken to assure that the MOU is written so as not to require modification every time there is a need to adjust or correct the budget, which could happen frequently.

One commenter questioned whether the discussion based on OMB Circular A–87 (Cost Principles for State, Local and Indian Tribal Governments), Attachment A, paragraph C.3.c. and ASMB C–10, the implementation guide for OMB Circular A–87, meant that it was proper to allocate funds based on how much funding individual program partners have available. It appears that the commenter has misinterpreted these provisions; neither OMB Circular A–87 nor ASMB C–10 say that costs can be allocated and paid for based on available budget amounts. Expenditures reported under Federal programs may not be based on budgeted costs.

One commenter suggested that the allocation base for any service normally provided by a partner program should be the normal historical cost of that partner providing the service. While it is possible that the cost that a particular program has normally incurred to provide a service that becomes a common service/activity in the One-Stop environment will be approximately the same as it costs each program to provide the service separately, it is also quite possible that the efficiencies and economies of scale will result in a lower cost. However, the normal historical cost of delivery of a particular service or activity is not a proper allocation base. A cost allocation base should be a factor that has a causal relationship to the costs being allocated and the benefits received by each program.

One commenter indicated that the guidance needs to address the propriety and impact of modifications to the cost allocation and resource sharing methodologies. Discussion of this subject has been added to the third paragraph of the section titled Funding or Paying for a Partner's Allocated Share of One-Stop Costs. The guidance explains that cost allocation and resource sharing methodologies should be modified to reflect actual experience and that such modifications ought to occur as soon as the need is recognized.

A number of commenters expressed concern about whether the guidance was meant to apply to One-Stop centers only or to the One-Stop system as a whole. The guidance included herein is intended to apply to both. One commenter requested clarification as to whether the term One-Stop partners is meant to include only the required partners or all One-Stop partners. The term is meant to include all of the partners for a given local area. In addition to the required One-Stop partners, WIA section 121(b)(2) identifies possible additional partners which may include entities that operate Federal, State, local and private sector programs. This commenter also wondered what basis exists for requiring a partner program that is not financed with any Federal funds to bear its fair share of the common costs of the One-Stop. If any program wants to be a partner in a local One-Stop system, it should be included in the MOU for the local area. To the extent that each partner benefits from the common costs of the One-Stop, it should pay for the allocable share attributable to its program. The same commenter asks whether the Federal funding agencies are either an express or implied partner thus making bilateral MOUs trilateral agreements. The Federal funding agencies are not partners to the local area MOUs.

There were a couple of comments which suggested that the concepts of cost allocation and resource sharing appear to be commingled throughout the document. While one of the objectives of this guidance is to emphasize that cost allocation and resource sharing are two distinctly different concepts, there are many instances where it is almost impossible to talk about one of the concepts without reference to the other. Cost allocation is the measurement of actual costs based on benefits received. Resource sharing is the concept of how these costs will be paid for or funded. The two concepts are intricately interrelated.

We received a few comments that appear to take exception to the ETA vision of integration of partner program services in the One-Stop environment. Other comments expressed concern about the inference that integration was a future expectation while co-location and coordination of services was most typical at the present time. The concern appears to be that local One-Stop systems and centers will not move toward integration if the guidance leads them to believe co-location and coordinated services meets ETA's current expectation. ETA's vision for this program has not changed. While other models are acceptable, ETA will continue to work with States and local areas to help them realize the benefits of a fully integrated system. Language has been added to encourage the movement toward integration, even if done in phases. The changes are intended to eliminate any misperception that ETA is encouraging One-Stop systems to stop short of a fully integrated system.

A couple of commenters suggest that the paper identify which funding streams can be used to cover costs of State and Local Workforce Investment Boards established under WIA. Such costs are not typically common costs of the One-Stop system but rather are costs of the WIA program. However, it is possible that some boards may incur costs for activities that extend beyond the role that title I of WIA requires of them. The costs of such activities may benefit other partner programs and should be treated as shared costs allocated to the partner programs based on benefits received.

A couple of commenters asked if there would be more guidance on in-kind contributions. This guidance addresses the proper allocation among the partner programs of common costs incurred in a One-Stop environment. In-kind contributions, as discussed in the matching or cost sharing sections of the uniform administrative requirements found in OMB Circulars A–102 and A–110, are donations from third parties. They are not to be confused with

contributions to the One-Stop by partner programs of such things as space, equipment, staff or other goods and services for which the partner program incurs a cost. Such partner contributions constitute the resources that they are sharing to cover their allocable share of common costs. In-kind contributions received by partner programs from third parties may also be used by those partners, where permitted by the individual program, as a resource to cover their allocable share of common One-Stop costs. Some programs, e.g., Food Stamps and TANF, do not allow the use of in-kind.

One commenter suggested that the guidance should indicate the level of detail to which the partners are expected to go to determine and document proportionate use. The sections of the uniform administrative requirements which address financial management standards indicate that financial management systems need to be sufficiently documented to permit the tracing to a level of expenditure adequate to establish that federal funds have not been used in violation of the restrictions and prohibitions of the applicable laws. The allowable costs provisions of these requirements indicate that allowability of costs is to be determined in accordance with the OMB Cost Principles Circulars applicable to the type of organization incurring the cost. Thus, the level of detail should be consistent with GAAP as required by the OMB Cost Principles.

One commenter suggested that it is excessive to require that cost allocation be accomplished in accordance with GAAP, the OMB cost principles, and meet the audit testing requirements of OMB Circular A–133. The same commenter suggests that the guidance will require more of such administrative functions as budgeting and accounting, thus diverting funds away from program services. Other commenters indicated agreement with the expectation of compliance with these requirements, and emphasized agreement with the principle that costs must be necessary, reasonable and allocable to the partner programs based on benefit received and consistent with the OMB circulars. The guidance was not changed.

On a related issue, a few commenters suggested that the guidance indicate that it would not be proper to expect partner programs to pay for costs of such things as equipment acquired prior to the date of the MOU agreement. Based on the cost principles, the use of such equipment would need to be paid for by the partner programs that benefitted from it. In such a situation, the partners would not be paying for the acquisition of the equipment but for its use. The guidance was not changed.

A number of the comments related to the methodologies for determining proportionate shares. Some took exception to the propriety of using the data elements [bytes of information] of a common intake and eligibility determination form required by the individual partner programs. However, these commenters apparently failed to understand that this methodology is one that most closely reflects the costs incurred by all programs before the implementation of the WIA One-Stop environment when a potential client visited several partner programs, was found ineligible, and referred to other programs. In fact, distributing shared costs of a common intake and eligibility system using this methodology results in a considerable savings to those programs that found the potential clients to be ineligible. Some comments indicated that the WIA regulations suggest that individuals attributable to the partner's program is the only allowable basis for establishing proportionate shares. One suggested that the basis should be limited to individuals who are accepted by and receive services attributable to the program to which they are referred; however, this is only one of a number of possible ways to identify individuals attributable to a partner's program. While the WIA regulation at 20 CFR 662.270 does use the individuals attributable to a partner's program basis as the standard for establishing whether or not a partner program has to share in a particular cost, the very next sentence in the regulation clearly indicates that there are a number of methods which are consistent with the OMB circulars that may be used for allocating costs that the partners determine are the shared costs of the One-Stop. One of the purposes of this guidance is to clearly establish that a variety of cost allocation methods can be used to determine the amount of One-Stop costs that is proportionate to the use of the One-Stop system by the individuals attributable to the individual partner programs. It must be understood that a count of individuals is not the only way to establish such proportionate shares. In fact, there are a number of potential shared One-Stop costs for which counts of individuals attributable to each of the sharing programs may not be an appropriate basis, e.g., the costs associated with shared space. All of the methods described in this guidance are consistent with the OMB circulars. As previously stated, we intend to provide more details and discuss different examples of methods for determining proportionate shares and selecting appropriate bases for cost allocation in our planned technical assistance guide.

II. Background

Title I of the Workforce Investment Act of 1998 (WIA) requires each local workforce investment area to establish a One-Stop system for the delivery of certain Federal workforce development services. Entities responsible for the administration of separate Federal workforce investment, educational, and other human resource programs and funding streams (referred to as One-Stop partners) are to collaborate to create a seamless delivery system that will enhance access to services and improve employment outcomes for individuals receiving services. The system must include at least one comprehensive physical center that provides core services and access to the other activities carried out by the partners. The comprehensive center may be supplemented by additional comprehensive centers, a network of affiliated sites, technological and physical linkages with the partners, and specialized centers.

The WIA specifies that the required One-Stop partners include programs funded by the Departments of Labor (Title I of WIA, Wagner-Peyser, Unemployment Insurance, Trade Adjustment Assistance, NAFTA Transitional Adjustment Assistance, Welfare-to-Work, Senior Community Service Employment, and Veterans Workforce Investment programs and activities under 38 U.S.C. Chapter 41), Education (Vocational Rehabilitation, Adult Education, and Postsecondary Vocational Education), Health and Human Services (Employment and Training activities under the Community Services Block Grant) and Housing and Urban Development (Employment and Training activities), and authorizes any other appropriate program to serve as a partner, including the Temporary Assistance to Needy Families and the Food Stamp Employment and Training and Work programs. The partner is the entity responsible for the administration of the program in the local area, which may be a State agency, but is not intended to include each service provider that contracts with or is a subrecipient of the entity responsible for administration.

The responsibilities of the One-Stop partners, which are elaborated below, include:

1. Making available to participants the core services that are applicable to their programs;

2. Using a portion of their funds to create and maintain the One-Stop system and to provide applicable core services;

3. Entering into a Memorandum of Understanding (MOU) with the Local Workforce Investment Board (Local Board) regarding the operation of the One-Stop system;

4. Participating in the operation of the One-Stop system in a manner consistent with the MOU and the partner's authorizing law; and

5. Providing representation on the Local Board.

The Department of Labor regulations at 20 CFR part 662 (65 FR 49294, 49398 (August 11, 2000)) relate to the requirements of the One-Stop system, and One-Stop requirements are also included in the Final Rule issued by the Department of Education relating to the Vocational Rehabilitation Services program at 34 CFR part 361 (66 FR 4379 (January 17, 2001)).

Because WIA mandates that several employment and training programs funded under different laws by various Federal agencies partner in a One-Stop setting, it has become apparent that it is necessary for the Federal funding agencies to present a uniform policy position on acceptable methodologies for cost allocation and resource sharing (methodologies for paying or funding of allocable costs) in the WIA One-Stop environment. As a result, the Office of Management and Budget (OMB) asked agencies to develop a uniform policy position. The Department of Labor's Employment and Training Administration (ETA) took the lead in developing this guidance in consultation with the Departments of Agriculture, Education, Health and Human Services, as well as Labor's Office of Cost Determination and Office of Inspector General.

The underlying problem for the One-Stop partners is to find an appropriate way of accumulating cost information and assuring appropriate payment for shared costs as they come together in a single location. It must be recognized that cost allocation is a distinctly different requirement from resource sharing. Cost allocation is a concept that is embedded in the OMB Cost Principles Circulars and one which is based on the premise that Federal programs are to bear an equitable proportion of shared costs based on the benefit received by each program. In contrast, resource sharing is the methodology through which One-Stop partner programs pay for, or fund, their equitable share of the costs. This document discusses both concepts and presents acceptable methodologies for both cost allocation and resource sharing.

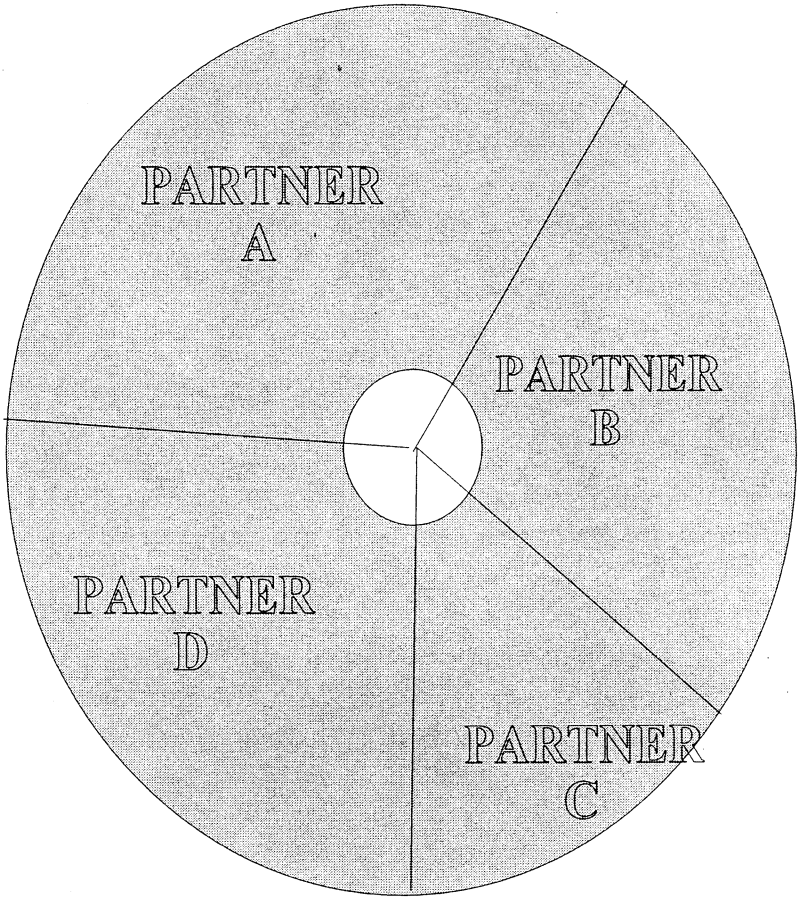
While this guidance does not make any changes to the OMB cost principles; it helps to describe the flexibility and limitations under those principles for Federal programs to determine equitable proportion.

One-Stop Cost Concepts

Under WIA the local One-Stop center is not a direct recipient of Federal awards. Rather, it is the location through which several workforce development and education programs operate their programs in partnership with other entities and make their services available to the program beneficiaries (participants, students, the unemployed, job seekers, employers, etc.).

These One-Stop center partners are recipients of Federal grant dollars, either directly or from another recipient. They will, in their normal course of business, maintain appropriate accounting and other information in accordance with applicable Federal guidance. This normally includes accounting for indirect costs, through indirect cost rates or cost allocation plans, as well as for direct costs. All costs must be accounted for in accordance with Generally Accepted Accounting Principles (GAAP). For the direct funded organizations, this includes negotiating the necessary indirect cost rate or obtaining approval of their cost allocation plan.

When individual organizations partner in the One-Stop environment, some activities or functions are performed which benefit more than one individual organization, e.g., a common reception area, provision of information on the services available at the One-Stop, or collection of basic information from individuals seeking assistance at the One-Stop. When this occurs, the cost of performing these functions must be allocated to the benefiting programs or cost objectives (grants). This must be done based on benefits received by the benefiting program, and not on availability of funds. When that distribution is accomplished, the individual partners must include these costs (i.e., the allocable share of the common/shared costs) in their total cost picture to determine the total cost of operations to perform the functions for which they were funded. The following diagram shows the relationship of the partner programs to each other and to the One-Stop.



It should be noted that the unshaded center area is comprised of the shared costs that are applicable to two or more of the partner entities. A provides a service that benefits A, B, C and D; B provides a service that benefits B, C, D and A; C provides a service that benefits C, D, A and B; and D provides a service that benefits D, A, B and C. Allocating these costs to the benefiting activities (grants/programs) does not necessarily relate to the methodology used for payment. Payment of these costs will be discussed later in this guidance. Allocating One-Stop costs is no different from allocating costs incurred by grantees for their individual grant programs. The One-Stop costs have effectively been pooled. The question is what is the best basis for equitable distribution of shared costs without incurring unnecessary additional burden.

While neither the physical One-Stop center itself nor the local area One-Stop system is required to have a Federally approved negotiated indirect cost rate or cost allocation plan, this does not mean that there is no need for cost allocation. The WIA requires that a portion of the funds provided under the various Federal laws authorizing the required partner programs be used to pay for the creation and maintenance of the One-Stop delivery system, and the provision of core services that are applicable to the individual partner programs, and requires participation in the operation of the One-Stop system, in a manner consistent with the terms of the MOU and the partner's authorizing law (WIA sec. 121(b)(1)(A) and 134(d)(1)(B)).

The core services include:

1. Eligibility determination under WIA Title I formula programs;

2. Outreach, intake and orientation to the information and other services available through the One-Stop delivery system;

3. Initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

4. Job search and placement assistance, and career counseling;

5. Employment statistics information;

6. Providing performance and cost information on WIA title I, adult education, postsecondary vocational education and vocational rehabilitation providers;

7. Providing information on the performance of the local One-Stop delivery system;

8. Providing information on the availability of supportive services;

9. Providing information on the filing of UI claims;

10. Providing assistance in establishing eligibility for welfare-to-work activities and for programs of financial aid assistance for training and education programs not funded under WIA; and

11. Providing follow up services for WIA title I participants who are placed in unsubsidized employment.

At a minimum, the core services that are applicable to a partner's program (i.e., are authorized and provided under the program) and that are in addition to the basic labor exchange services traditionally provided in the local area under the Wagner-Peyser Act must be made available by the partner at the comprehensive One-Stop center. The basic labor exchange services are described in the WIA One-Stop provisions of the Employment Service regulations at 20 CFR 652.3 to include assisting job seekers in finding employment, assisting employers in filling jobs, and facilitating the match between job seekers and employers. Many of the One-Stop partner programs include these same, or similar, activities for a specified eligible client population. The WIA regulation at 20 CFR 662.250(a) does not mean that these

partner programs no longer have to provide these services to their respective client populations. Instead, it clarifies that partner programs are not expected to contribute to the costs of Wagner-Peyser Act services. (It should be noted the Adult and Dislocated Worker programs authorized under WIA title I must make all core services available at the One-Stop center). It should also be emphasized that this list of core services is the minimum required to be provided at the comprehensive center, and the partners are encouraged to provide such additional services through the One-Stop centers as may allow them to better serve their customers. For example, providing for a common intake and eligibility determination system, including the development and use of a common application form, can be used for a number of the partner programs at the center to enhance access to the programs. Such a system would be customer friendly, and result in administrative efficiencies. The same cost allocation methods are applicable irrespective of the scope of services provided at a center.

The cost allocation that is necessary relates to the common costs of the local One-Stop system or an individual One-Stop center, which may include such items as space and occupancy costs, utilities, telephone systems, common supplies and equipment, a common resource center or library, perhaps a common receptionist or centralized intake and eligibility determination staff. It must be understood that each local One-Stop system and/or center is unique and that this guidance, which intends to share some of the principles and some basic models of One-Stop cost allocation and resource sharing, does not propose to impose a single methodology on the entire WIA One-Stop system. The fact that the cost allocation and resource sharing methodology used in a particular local area One-Stop system or an individual One-Stop center is not specifically discussed in this document does not mean that the methodology is inappropriate or unallowable. The cost allocation methodology that is used, however, must:

1. Be consistent with GAAP:

2. Be consistent with the applicable OMB cost principles and administrative requirements; and

3. Be accepted by each partner's independent auditors to satisfy the audit testing required under the Single Audit Act and OMB Circular A–133.

Whatever methodology is used, it must be supported by actual cost data. Further, the methodology must not permit the shifting of costs that are not allocable to or do not benefit a specific program to that program. In this regard, the books of account for each partner program should reflect both the actual shared costs for which the program is paying and the resources used to pay for these costs.

In the local One-Stop, the idea of allocating costs and sharing resources can be viewed:

1. In the aggregate, i.e., covering all of the One-Stop center's shared costs;

2. On an activity basis where all of the partners pay their allocable share of the total costs of an activity or function (e.g., a common intake and eligibility determination system); or

3. On an item of cost basis where all programs pay their allocable share of each item of cost (e.g., rent).

It could also be some combination of the above, e.g., when a particular or a number of functions are treated on an activity basis and the remaining items of cost are treated on an aggregate or individual item of cost basis.

The WIA regulations require that each partner must contribute a fair share of operating costs of the One-Stop delivery system proportionate to the use of the system by individuals attributable to the partner's program. This requirement is intended to establish an equitable principle, but it is not intended to prescribe a single method for allocating costs. The regulation goes on to say that there are a number of methods, consistent with the relevant OMB circulars, that may be used for allocating costs among the partners. Any methodology used must:

1. Result in an equitable distribution of costs and not result in any partner paying a disproportionate share of the shared One-Stop costs;

2. Correspond to the types of costs being allocated;

3. Be efficient to use; and

4. Be consistently applied over time.

The methodology used may vary dependent upon the nature of the One-Stop structure. Further, any grant-specific cost and/or administrative constraints are still applicable to the individual grantees.

The basic types of One-Stop systems include:

1. *Simple Co-location with Coordinated Delivery of Services:* Several partner agencies coordinate the delivery of their individual programs and share space. Each partner retains its own identity and controls its own resources. Each partner provides services in a coordinated manner with other funding sources while paying for its own fixed and variable costs as direct charges to its own funds. The partners pool only those costs that are shared jointly with the other agencies.

2. *Full Integration:* All partner programs are coordinated and administered under one management structure and accounting system. Full integration is the ETA vision of One-Stop systems. It may be accomplished in phases as the partner programs come to realize the cost savings and efficiencies of integrated services and activities. Under full integration, there is joint delivery of program services and the operation is customer focused. Since resources are combined, the corresponding costs are often collected into cost pools. Pooled costs are later allocated back to individual grant programs using an appropriate method of allocation.

3. *Electronic Data Sharing (through satellite offices):* Only program information is provided and there are no co-located staff assigned.

While the principles discussed in this guidance may be applied to all three types of structures, the focus of the paper is to address co-located programs with shared space and some common functions or activities whether or not those functions or activities are fully integrated.

Allocation of One-Stop Shared Costs

While the physical One-Stop center itself is not a specific direct recipient of Federal awards as an entity, it is expected that many program operators within a local One-Stop system and/or at an individual One-Stop center, perhaps including the One-Stop operator, are direct recipients of Federal awards and do have federally negotiated indirect cost rates or approved cost allocation plans.

As previously stated, the costs of a One-Stop may be categorized as: (1) Direct costs that benefit one particular cost objective, (2) shared direct costs that can be readily allocated to the sharing cost objectives, and (3) indirect costs incurred for common or joint purposes benefitting more than one cost objective but are not readily assignable to the benefitting cost objective.

Cost pooling may be used to distribute both shared direct costs and indirect costs. Cost pooling involves the accumulation of costs to pools for later allocation to final cost objectives. It may be used for any type of common costs, administrative or program, incurred in a One-Stop center. It is appropriate to use cost pooling when direct charging requires disproportionate effort in order to determine the amount that should be charged to the individual cost objectives.

After One-Stop shared costs are identified, they may be accumulated by line-item expense categories (also referred to as natural expense classifications and object expense categories). Some examples of line-item expenses are salaries, occupancy costs, telephone, postage and shipping, printing and duplication, and supplies. Shared costs may also be accumulated or grouped by service department such as data processing and management information (MIS), printing and duplicating, mailing and shipping, purchasing and procurement, payroll, personnel, and general legal services. Another method may be accumulating costs based on function or activity such as eligibility determination; outreach, intake and orientation; initial assessment; job search and placement assistance, and career counseling; and follow up services. Whichever grouping or accumulation method is used, it is the actual incurred costs that are accumulated.

Once the costs have been accumulated, they need to be allocated to the benefitting cost objectives (for One-Stop allocation, the final cost objectives will most often be the partner programs) on some basis that will provide for an equitable distribution. The most commonly used allocation bases include:

1. *Direct-staff salaries:* Percentage of total salary costs of staff assigned to activities.
2. *Direct-staff hours:* Percentage of time spent by staff assigned to activities.
3. *Modified total direct costs:* Percentage of total direct costs for activities, less distorting items (e.g., equipment purchases, flow through funds, etc.)
4. *Total direct costs:* Percentage of total direct costs for activities. (Normally inappropriate unless there are no distorting items. See item 3 above.)
5. *Units of service:* Percentage of units of service provided.
6. *Usage:* Percentage of usage of space, equipment, or other assets by activities.

Allocations may be made on a single basis for all categories of costs or on multiple bases that vary by category. When reliable, using a single basis for allocating common costs can be less burdensome. Direct staff salaries is often appropriate when salaries alone represent about half of an entity's total costs and other categories of costs tend to vary according to staff salaries. Cumulative cost pool allocations for the reporting period are often preferable to monthly allocations in achieving equitable sharing among grant funded activities because of various grant periods during the grantee fiscal year. Monthly allocations can be misleading as to results because all costs do not occur evenly on a monthly basis. Regardless of the methodology used, allocations could be accomplished monthly but must be done no less frequently than the required financial reporting period, usually quarterly.

Funding or Paying for a Partner's Allocated Share of One-Stop Costs

Under WIA, the One-Stop partners are required to enter into a written Memorandum of Understanding (MOU) with the Local Board, prior to starting operations. The MOU must include provisions that describe:

1. The services to be provided through the One-Stop delivery system;
2. How the cost of those services and the operating costs of the One-Stop delivery system will be funded (paid for);
3. The methods that will be used to refer individuals between the One-Stop operator(s) and the One-Stop partners for the provision of appropriate services and activities; and
4. The duration of the MOU as well as the procedures for amending it during the term or period covered by the MOU.

In order for the MOU to describe how the costs of services and One-Stop operations will be paid for, the partners will first need to identify those costs and prepare a budget for the common/shared One-Stop activities. This budget will not only describe the shared costs of the One-Stop system and/or One-Stop center in total, but will also include estimates of how much of the total shared cost (personnel, space, telecommunications, etc.) of the One-Stop is allocable to each partner. The budget development process involves all of the One-Stop partners and the One-Stop operator. The budget document does not need to be included in or attached to the MOU. Remember that a budget is a plan, typically based on historical information, that estimates how the anticipated funding level will be spent on the expected costs of the programs. On a periodic basis, no less frequently than quarterly, the actual shared costs and the allocation among the partner programs will need to be reviewed and compared with the planning levels that were included in the budget. Corrections or adjustments to the budget should be made on an ongoing basis to reflect actual levels. At that time, the budget document, including the allocable partner shares of the One-Stop shared costs, may need to be adjusted to conform to actual circumstances. The longer that a One-Stop waits to make adjustments, the greater the likelihood that adjustments will be significant. An adjustment to the budget will not necessarily require a modification of the MOU unless the terms of the MOU are affected.

After the budget is prepared, all of the partners will then agree how each will pay its allocable fair share. One partner may furnish only personnel; another partner may furnish space and telecommunications, etc., or each partner may use its grant funds to pay for its allocable portion of shared costs. This agreement about how the allocable shares of One-Stop shared costs are to be funded (paid for) must be included in the MOU that is to be followed during the operating period. As with cost allocation, the choices that the partner programs make about the methods of payment for the shared costs should be applied consistently over time. However, in some circumstances, the cost allocation and resource sharing methodologies, including the methodologies used to determine proportionate shares, may need to be modified if actual experience is either different from what the partners planned or demonstrates that the methods being used are resulting in inequitable distributions. As with budget modifications, it is often best to modify the methodologies as soon as possible after the need is recognized. Because such changes would constitute changes in methodologies which are a required element of the local MOU, it may also be necessary to modify the MOU when such a change is made.

For many of the partner programs, including the WIA title I–B program, the Federal funds are awarded or passed through to State and local governmental entities subject to the cost principles of OMB Circular A–87. OMB Circular A–87, Attachment A, paragraph C.3.c. states, ''Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons. However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements''. Question 2–16 in ASMB C–10, the implementation guide for OMB Circular A–87, clarifies that the intent of this paragraph is to distinguish between cost allocation and funding allocation. The C–10 goes on to say, ''(* * * The term 'cost shifting' should not have been used, because cost shifting is unallowable, per se.) A

function or activity within the government organization that benefits two or more programs may be set up as a single cost objective. Costs allocable to that cost objective would be allowable under any of the involved programs which benefit from these activities/costs. The government can make a business decision regarding what combination of funds made available under these programs would be applied to this cost objective.''

This same concept is applicable to the WIA One-Stop environment, even when all program service providers are not governed by OMB Circular A–87, provided that its use is consistent with a program's governing statutes and regulations and is agreed to in the MOU by the partners. As an example of the application of this Circular to a One-Stop, an individual might be eligible for the Food Stamps and TANF Work programs as well as the WIA title I–B adult employment and training program. Further, the services provided to that individual, such as acquiring transportation to the job site, could be allowable under any of the three programs. Where these conditions exist, the cost objective is transportation services for individuals meeting ''X'' criteria. The grantees for these programs can choose which program to charge for the cost of transportation services for these individuals because they are equally eligible under several programs for essentially the same services. As expressed in the A–87 implementation guide, the reference relates to the management decision of an organization concerning which program will pay for a cost which is allowable under and allocable to more than one program in accordance with existing program requirements. These grantee decisions and agreements are to be reflected in the MOU.

The One-Stop environment also permits partner program operators to agree through their local MOU how they pay their total allocable share of common One-Stop costs (Operator A may provide and pay for 100% of rent and Operator B may provide and pay for 100% of some other shared cost(s) where each partner is paying an amount equal to their respective share of total allowable/allocable costs). This does not allow a program that receives no benefit from a cost to claim incurrence of that cost; it merely provides flexibility in the payment method of each program operator for its fair share of costs according to benefits received. Under no circumstances may any partner program pay more than its total allocable share of total allowable costs. Further, no program may pay for costs that are not allowable under its governing statutes and regulations. Below are examples of situations for which this provision might be used.

1. Services provided prior to determining eligibility for any given program(s) are allocable to the program(s) for which they are allowable. However, in accordance with the above, any program can pay for those services entirely, to the extent they are allowable, provided that the total payments from any given program do not exceed the total costs for various activities and services that were allocated to that program.

2. Similarly, a receptionist is typically a common cost allocable to all programs. However, the salary costs of the receptionist may be borne by any given program where such costs are allowable, provided that the reimbursements or payments made by that program do not exceed, in total, the total organization-wide allocations made to that program.

However, some caution must be exercised and care taken to draw the line in situations when:

1. The activity begins to serve a specific program purpose instead of being general service to the public; or

2. Only one program directly benefits.

When a staff function that is common to more than one but not necessarily all of the One-Stop partner programs, such as intake and eligibility determination, is included in the One-Stop shared costs, it may be more equitable for payment of the program share of the activity to be based on the notion of full time equivalent (FTE) staff position rather than on the aggregate total of staff salaries. The staff of programs in a One-Stop center will likely include State employees, county and/or city employees, as well as employees of educational institutions, non-profit community-based organizations, and for profit commercial entities. Staff who perform the same function for the One-Stop operation will be on different pay scales and pay levels. If all of the programs that require the same specific function provide FTE staff to perform that function in the same proportion as the relative number of individuals attributable to the partner's program (e.g., the referrals to its program), then each would have provided its equitable share of the function. In order to establish the appropriate FTE contribution for each partner, it is first necessary to establish the proportionate share of each of the partner programs. The proportionate share could be established based upon the number of individuals referred to the program compared with the total number of individuals served by the common function. Another methodology, discussed in the paragraph below, establishes the proportionate share of each program based on the number of data elements, included in a common intake and eligibility determination form, that are applicable to and used for the individual partner program. When these programs were operating independently of the One-Stop, such staff would have conducted an intake interview and determined that the individual was not eligible for the program and, hopefully, referred the individual to the appropriate program where they would go through the intake process all over again. In a One-Stop environment using a standardized intake process, it will only be necessary for a client to go through the process once. This will result in a cost savings for the program that actually provides the program services as well as the programs which previously would have incurred the intake cost and not provided service. Obviously, if a particular partner's program is not able to use and does not benefit from the common staff function, then it cannot and should not bear any share of the cost of such function.

An alternative method for determining the proportionate share of a common intake and eligibility system for each of the partner programs could be based on an approach that considers the benefit of individual data elements to each of the benefitting program partners. This can be accomplished by analyzing the data elements and computing the appropriate percentage of effort applicable to each benefitting partner as follows:

Total bytes on the intake form	Used by program				
	500	A	B	C	All programs
Bytes for Name	40	40	40	40	120
Bytes for Street Address	80	80	80	80	240

Total bytes on the intake form	Used by program				
	500	A	B	C	All programs
Bytes for City Address	25	25	25	25	75
Bytes for State Address	2	2	2	2	6
Bytes for Zip Code	10	10	10	10	30
Bytes for Other Information	343	143	183	203	529
Total Bytes	500	300	340	360	1,000
Percentage of Cost by Program	.....	30	34	36	100

In the above table, the total number of bytes of information for each item on the form is indicated in the first column. The data in the columns headed ''A'', ''B'', and ''C'', indicates the number of bytes of information used by each of the individual programs. All programs require the data elements related to name and address, but each uses different amounts of the remaining data elements. The fifth column in the table represents the total usage of all of the data elements by all of the participating programs and constitutes the denominator, or base, upon which the proportionate share of the individual program use is calculated.

The FTE methodology discussed above works best in those situations when the common function (e.g., intake and eligibility determination) is being allocated to the sharing partners separate from the other shared costs. When common functions are being allocated as part of the process of allocating total shared costs, use of the FTE methodology for a portion of the total may result in inequitable distribution of the total costs. In such cases, it may be better to base the proportionate share allocation on the actual staff salary cost rather than on FTEs.

Conclusion

This document has described the framework created under the Workforce Investment Act which creates the need for resource sharing and cost allocation methodologies for the shared costs of a One-Stop system. It has been a collaborative effort involving comments and discussions among representatives from the Departments of Agriculture, Education, Health and Human Services, as well as the Department of Labor's Employment and Training Administration, Office of Cost Determination and Office of Inspector General. This guidance separates the identification and determination of One-Stop shared costs from the discussion of how those costs are paid for or funded. While there may be unique One-Stop settings that will require additional guidance, this document provides a framework that all One-Stop systems and/or centers will be able to use to establish their own system for cost allocation and resource sharing. Thus, it is expected that Federal agency auditors will utilize as additional criteria for audit and resolution purposes the agreements reached by One-Stop partners in local Workforce Investment Areas in accordance with this guidance along with other applicable rules. The Federal partners that participated in the preparation of this paper, as well as the Office of Management and Budget, accept the principles discussed herein as appropriate ''resource sharing'' and ''cost allocation'' guidance for WIA One-Stop systems and/or centers.

Signed at Washington, DC, this 23rd day of May, 2001.

Raymond J. Uhalde,

Deputy Assistant Secretary of Labor, Employment and Training Administration.

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Federal Register

Thursday,
May 31, 2001

Part III

Department of Labor

Employment and Training Administration

United States Employment Service and America's Labor Market Information System: Labor Exchange Performance Measures; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

United States Employment Service and America's Labor Market Information System; Labor Exchange Performance Measures

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the establishment of final performance measures for the public labor exchange administered as part of the One-Stop delivery systems of the States. We established these performance measures based on comments received in response to proposed labor exchange performance measures previously published in the **Federal Register**. This notice discusses the comments received and our response to the comments. Three of the performance measures apply to job seekers registered with the labor exchange: job seeker entered employment rate; job seeker employment retention rate at six months; and job seeker customer satisfaction. One performance measure applies to employers receiving services provided through the One-Stop delivery system: employer customer satisfaction.

DATES: These labor exchange performance measures will become effective July 1, 2001.

ADDRESSES: All comments received during the comment period following the publication of the proposed labor exchange performance measures (65 FR 49708, *et seq.*, Aug. 14, 2000) are available for public inspection and copying during normal business hours at the Employment and Training Administration, Office of Career Transition Assistance, Division of U.S. Employment Service & ALMIS, 200 Constitution Avenue, NW., Room C–4514, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Gay Gilbert, 202–693–3046 (voice) (this is not a toll-free number), or e-mail: *ggilbert@doleta.gov.*

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), these performance measures are being submitted to the Office of Management and Budget (OMB) for review. Affected parties do not have to comply with the information collection requirements contained in this document until we have published in the **Federal Register** the control number assigned by the Office of Management and Budget. Publication of the control number notifies the public that OMB has approved these performance measures under the Paperwork Reduction Act.

I. Authority

Labor exchange performance measures are established under the following authority:

A. Wagner-Peyser Act sec. 3(a), 29 U.S.C. 49b(a)

The Secretary shall assist in coordinating the State public employment services throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the States.

B. Wagner-Peyser Act sec. 3(c)(2), 29 U.S.C. 49b(c)

The Secretary shall—

* * * * *

(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of job seekers relating to the system.

C. Wagner-Peyser Act sec. 7(b), 29 U.S.C. 49f(b)

Ten percent of the sums allotted to each State pursuant to section 49e of this title shall be reserved for use in accordance with this subsection by the Governor of each such State to provide—(1) performance incentives for public employment service offices and programs, consistent with performance standards established by the Secretary, taking into account direct or indirect placements (including those resulting from self-directed job search or group job search activities assisted by such offices or programs), wages on entered employment, retention, and other appropriate factors.

D. Wagner-Peyser Act sec. 10(c), 29 U.S.C. 49i(c)

Each State receiving funds under this Act shall—

(1) make such reports concerning its operations and expenditures in such form and containing such information as shall be prescribed by the Secretary, and

(2) establish and maintain a management information system in accordance with guidelines established by the Secretary designed to facilitate the compilation and analysis of programmatic and financial data necessary for reporting, monitoring and evaluating purposes.

E. Wagner-Peyser Act sec. 13(a), 29 U.S.C. 49l(a)

The Secretary is authorized to establish performance standards for activities under this Act which shall take into account the differences in priorities reflected in State plans.

F. Wagner-Peyser Act sec. 15(e)(2)(I), 29 U.S.C. 49l–2(e)(2)(I)

(e) State responsibilities.—

* * * * *

(2) Duties.—In order to receive Federal financial assistance under this section, the State agency shall—

* * * * *

(I) utilize the quarterly records described in section 2871(f)(2) of this title to assist the State and other States in measuring State progress on State performance measures.

II. Labor Exchange Performance Measures

A. Background

We initiated the development of a performance measurement system for the public labor exchange in early 2000 with the formation of a workgroup in collaboration with the Interstate Conference of Employment Security Agencies (ICESA)—now the National Association of State Workforce Agencies (NASWA). This workgroup consisted of representatives from fifteen State agencies, ICESA, the Veterans' Employment and Training Service (VETS), and the ETA Regional and National Offices. The workgroup met three times during 2000 to develop recommendations for a labor exchange performance measurement system, to include specific labor exchange performance measures.

Based on recommendations the workgroup developed during its first two meetings, we published a set of five proposed labor exchange performance measures in the **Federal Register** (65 FR 49708 *et seq.*, Aug. 14, 2000). These measures were: employer customer satisfaction; job seeker customer satisfaction; employment rate; entered employment rate; and employment retention rate at six months. We also published a framework for establishing expected levels of performance for each of these measures.

During its third meeting, the workgroup reviewed and analyzed all comments received on the proposed labor exchange performance measures. The review and analysis led to the final set of performance measures presented in this document. The workgroup also provided substantial input that will lead to revised ETA 9002 Reports, where the results of the performance measures will be reported, and a revised ET Handbook No. 406 (ETA 9002 Data Preparation Handbook), containing data collection and reporting instructions. Finally, the workgroup recommended that the proposed procedures for establishing expected levels of performance be revised, based on the comments received. Further information about reporting on labor exchange services and performance measures, and methods for establishing expected levels of performance will be published in separate notices.

B. Response to Comments

We received twenty-five sets of comments in response to the five proposed labor exchange performance measures published in the August 14, 2000, **Federal Register**. Representatives from twenty State agencies (three agencies provided two separate sets of comments), a private researcher, and VETS provided comments. We considered these comments and the recommendations of the workgroup in establishing the final labor exchange performance measures. The comments are discussed at length as follows:

(1) Employer Customer Satisfaction

We proposed to adopt the results of the employer customer satisfaction survey administered under Title I of the Workforce Investment Act of 1998 (WIA) using the American Customer Satisfaction Index (ACSI) methodology for employers receiving services involving significant personal contact with One-Stop staff to reflect employer satisfaction with One-Stop services (see 65 FR 49709–49711).

Seven commenters supported the use of the employer customer satisfaction survey as stated, with two commenters specifically supporting the concept of the combined WIA/labor exchange survey of employers receiving services through the One-Stop centers that involved significant personal contact with staff.

Several commenters commented on the employer survey. These comments included general concern about the wording of the lead-in before the questions, the wording of the second and third questions, the degree of flexibility allowed States to add additional questions, and the level of specificity of the questions.[1] One commenter suggested that an eleven-point scale (0–11) should be used so that the number ''five'' would be the mid-point, whereas the proposed ten-point scale does not have a mid-point. Another commenter pointed out that the terms ''completion of service'' and ''30–60 days after a job order has been listed'' were used as if they meant the same thing in indicating when the survey should be administered to an employer. In fact, services could have been provided to one employer over a 6–8 month period before being completed, although a job order could have been listed by another employer after only one phone call. Such employers would have vastly differing experiences with the labor exchange. Other commenters questioned what provisions would be made to administer the survey to non-English-speaking employers, and why the decision was made to use a telephone versus a mail survey. Still others expressed concerns about the cost of the survey—specifically whether provisions would be made for sharing the cost with Title I of WIA.

Two commenters did not support the concept of a combined employer survey for both Title I of WIA and the labor exchange, while another commenter found it improper to hold programs funded under Title I of WIA accountable for Wagner-Peyser Act labor exchange performance. Other comments related to the response rate, with some commenters stating that the proposed fifty percent response rate was too high and not achievable, and another stating that employers do not want to be bothered with surveys. Another commenter noted that the Office of Management and Budget (OMB) guidelines state that erroneous inferences are possible when response rates are in the 50%–75% range. Finally, a commenter sought definitions of the terms ''substantial service'' and ''labor exchange.''

Response: We agree that the commenters identified some problems with the proposed employer customer satisfaction survey. We have, however, decided to use a revised version of the proposed employer customer satisfaction survey to measure employer satisfaction with services involving substantial personal contact with One-Stop staff. Using a single instrument to measure customer satisfaction with One-Stop employer services provides an overarching measure of the One-Stop system. Specifications for the final employer customer satisfaction measure for employers receiving services involving significant personal contact with One-Stop staff can be found in TEGL 14–00, March 5, 2001.

The ACSI methodology is being adopted to be consistent with Title I of WIA. The ACSI is the most widely used index currently in practice. It is used extensively in the business community, including at over 150 Fortune 500 companies, and in many European countries. Twenty-nine agencies of the Federal government have used the ACSI. In addition, it has been used twice in the past four years to assess customer satisfaction for ETA's Quality Initiative—the Enterprise. The ACSI will allow the workforce investment system and particularly, the public labor exchange, to not only look at performance within the system, but also to be able to gain perspective on the workforce investment system's performance by benchmarking against outside organizations and industries. The ACSI also has a history of usefulness in tracking change in customer satisfaction over time, making it an ideal way to gauge States' progress in continuously improving performance.

This survey approach captures common customer satisfaction information that can be aggregated and compared at a State and national level. The survey will be administered using a set of three required questions that will form a customer satisfaction index. The ACSI score is obtained by combining scores from three specific questions that address different dimensions of customers' experience. In order for the ACSI survey to yield meaningful results under the prescribed methodology, we cannot significantly modify the survey questions or the associated scale and must administer the survey via telephone.

We will publish instructions for reporting employer customer satisfaction scores as part of the labor exchange performance measurement system as part of a revised version of ET Handbook No. 406 (ETA 9002 Data Preparation Handbook). These

[1] The three mandatory questions originally proposed for the job seeker customer satisfaction survey are the following:

(1) Utilizing a scale of 1 to 10 where ''1'' means ''Very Dissatisfied'' and ''10'' means ''Very Satisfied'' what is your overall satisfaction with the service(s) provided from ____?

(2) Considering all of the expectations you may have had about the services, to what extent have the services met your expectations? ''1'' now means ''Falls Short of Your Expectations'' and ''10'' means ''Exceeds Your Expectations.''

(3) Now think of the ideal service(s) for people in your circumstances. How well do you think the service(s) you received compare with the ideal service(s)? ''1'' now means ''Not Very Close to Ideal'' and ''10'' now means ''Very Close to the Ideal.''

instructions will address many of the comments about the details of survey administration.

(2) Job Seeker Customer Satisfaction

We proposed a job seeker customer satisfaction measure that would follow the WIA methodology, but which would apply distinctly to job seekers registered with the labor exchange (see 65 FR 49711–49712).

We received a large number of comments on the job seeker customer satisfaction measure. Many of these comments were similar to those provided on the employer customer satisfaction survey. Four commenters supported the measure as proposed. Several commenters expressed concern about coordinating the labor exchange job seeker survey with the WIA participant survey for the several reasons discussed below. Some commenters were concerned about being able to identify which individuals were surveyed under Title I of WIA so that they would not be surveyed again by the labor exchange survey. Others were concerned about relating the results of the survey specifically to labor exchange services if queried job seekers had received services from multiple One-Stop partner programs, and how those queried would be able to identify whether they were responding about their satisfaction with labor exchange services or other One-Stop services. One commenter suggested combining the labor exchange survey with the WIA survey and sorting according to the services received by the job seeker. Another commenter suggested that those job seekers required to register by State law or policy should be excluded from the survey, so that the survey would only include those voluntarily registering. Another commenter suggested that some job seekers might be deterred from registering with the labor exchange by the prospect of being surveyed.

A number of commenters cited concerns about the ACSI methodology. One suggested that an eleven-point scale (0–11) should be used so that the number ''five'' would be the mid-point, whereas the proposed ten-point scale does not have a mid-point. Others wanted more information to be provided about the ACSI weights, and questioned the quality and reliability of the ACSI methodology. Two commenters wanted clarification on the timing of the survey, and one of the two additionally suggested that the survey be conducted within a set timeframe after receipt of service rather than after registration, as was proposed. Additional comments centered on the cost of the survey and questioned the use of a telephone methodology. Among the concerns cited with the telephone methodology were the lack of telephone service in rural areas and difficulty in properly administering the survey to non-English speaking individuals.

Finally, a number of commenters were concerned about the questions contained in the proposed survey.[2] One commenter suggested eliminating the third mandatory question and rephrasing the second to read: ''How did the services you received meet the expectations that you had?'' Others suggested that the questions were too broad and did not provide enough specific information on how to improve the labor exchange system. Still others wanted more guidance on what part of the survey could be modified—particularly whether the lead-in section before the first question could be modified.

Response: The purpose of the job seeker customer satisfaction measure is to gauge the satisfaction of registered job seekers with the labor exchange. We are adopting the ACSI methodology to measure job seeker customer satisfaction to be consistent with Title I of WIA and for the reasons described in the previous section on employer customer satisfaction.

Since the ACSI trademark is property of the University of Michigan and the Claes Fornell International Group (CFI), we will be modifying our existing license agreement with the University of Michigan to allow States to use the ACSI for a Statewide sample of job seekers. This sample will be in addition to the sample of employers and WIA, Title I participants already being surveyed under our current license agreement.

In the near future, we will publish detailed instructions for administering the job seeker customer satisfaction survey and reporting the job seeker customer satisfaction scores in the ET Handbook No. 406 (ETA 9002 Data Preparation Handbook) which will be filed with OMB as part of a Paperwork Reduction Act of 1995 (PRA) package.

(3) Employment Rate

ETA initially proposed an employment rate defined as:

All Wagner-Peyser Act labor exchange applicants who registered in quarter Q_0 and who earned wages in quarter Q_1 or Q_2 after registration, divided by the number of Wagner-Peyser Act labor exchange applicants who registered in quarter Q_0.

Six commenters supported the employment rate measure as proposed. One commenter questioned the concept of treating continued employment with the same employer as a positive outcome. This commenter suggested that a better outcome measure would be one that was previously considered by the workgroup, but not proposed (as noted in the August 14, 2000 **Federal Register**), in which employment with a different employer following registration with the labor exchange would be counted as a positive outcome. Two commenters suggested that the employment rate measure did not add value and that it might be confusing due to its inconsistency with the performance measures for Title I of WIA. One commenter stated that measuring the number of job seekers who continue to be employed after receiving labor exchange services is difficult given the proposed method of measurement. Finally, one commenter raised concerns about including individuals using labor exchange services, but who do not have a goal of obtaining employment in the measure.

Response: We have decided not to use the employment rate as a performance measure. However, we did reconsider the measurement concept previously reviewed by the workgroup in which employment with a different employer following registration with the labor exchange would be counted as a positive outcome and incorporated this concept into the job seeker entered employment rate.

(4) Entered Employment Rate

We initially proposed an entered employment rate defined as:

Of those Wagner-Peyser Act labor exchange applicants who were not employed upon registration in quarter Q_0: The number who earned wages in quarter Q_1 or Q_2 after registration, divided by the number who registered in quarter Q_0.

Four commenters supported the entered employment rate measure as proposed. Several commenters noted that the measure does not capture the employment outcomes of people changing jobs, or those who make a

[2] The three mandatory questions originally proposed for the job seeker customer satisfaction survey are the following:

(1) Utilizing a scale of 1 to 10 where ''1'' means ''Very Dissatisfied'' and ''10'' means ''Very Satisfied'' what is your overall satisfaction with the service(s) provided from ____?

(2) Considering all of the expectations you may have had about the services, to what extent have the services met your expectations? ''1'' now means ''Falls Short of Your Expectations'' and ''10'' means ''Exceeds Your Expectations.''

(3) Now think of the ideal service(s) for people in your circumstances. How well do you think the service(s) you received compare with the ideal service(s)? ''1'' now means ''Not Very Close to Ideal'' and ''10'' now means ''Very Close to the Ideal.''

transition from part-time to full-time employment or vice versa. Some commenters suggested that a similar measure should apply specifically to unemployment insurance (UI) claimants. One commenter suggested that the measure should apply only to job seekers who received staff-assisted services. Finally, two commenters suggested that the labor exchange methodology should not differ from that employed for Title I of WIA.

Response: We have refined the job seeker entered employment rate to account for the employment outcomes of people who change jobs, rather than limiting it to those unemployed at registration. In the final measure, job seekers who, in the first or second quarter following the beginning of their registration year, become employed by a different employer than that by which they were employed the quarter prior to registration would be counted as experiencing successful employment outcomes. Thus, job seekers who make a transition from part-time to full-time employment, or full-time to part-time employment, would be counted as experiencing a successful employment outcome if the transition was based on employment with a new employer. Additionally, job seekers who are not employed at the beginning of the registration year will be counted as having entered employment if they become employed in the first or second quarter after the beginning of their registration year.

The job seeker entered employment rate differs from that established for Title I of WIA because of the inherent differences between labor exchange services and the core, intensive, and training activities provided under Title I of WIA. The entered employment rate for Title I of WIA applies only to participants who have been determined to have exited the program after having completed receipt of workforce investment services. Also, the measure for Title I of WIA only applies to participants who are unemployed at the time of registration. The job seeker entered employment rate applies to all job seekers who register with the labor exchange to aid them in their search for work, regardless of whether they are employed or unemployed at the time of registration. Also, because the labor exchange system is not structured around the concept of exiting from service receipt, we deemed it impractical to establish such a concept for labor exchange performance measurement.

(5) Employment Retention Rate at Six Months

We proposed an employment retention rate at six months measure defined as:

> Of those Wagner-Peyser Act labor exchange applicants who registered in quarter Q_0 and who earned wages in quarter Q_1 or Q_2 after registration: the number who also earned wages in the second quarter following the quarter in which earned wages were first recorded, divided by the number who earned wages in quarter Q_1 or Q_2.

Two commenters supported the measure in its proposed form. One suggested that the measure should be the same as the WIA retention measure. Many commenters provided comments on how the measure might be modified. Seven commenters stated that, as proposed, the results of the measure might be impacted by seasonal employment, or individuals who do not have a desire to work year-round, for example students, seasonal farmworkers, and those employed in certain seasonal industries, such as agriculture and tourism. Seven commenters questioned whether retention in employment should be established as a goal for the labor exchange and whether the labor exchange has the capacity to impact retention in employment. Two commenters cited concerns about the lag time before information would become available due to the use of wage records as a data source, and one commenter did not believe that total wages earned in a quarter from multiple employers would provide valuable information for performance measurement purposes. Finally, two commenters suggested that the retention measure should only apply to job seekers who receive staff-assisted services.

Response: We have decided to retain the job seeker employment retention rate at six months measure for the labor exchange to parallel the employment retention rate at six months measure for Title I of WIA. However, the labor exchange retention measure builds upon the job seeker entered employment rate for consistency. Like the retention rate measure for Title I of WIA, the job seeker retention measure only applies to those who were determined to have entered employment according to the respective program's entered employment rate. To account for a portion of those registered job seekers who may not be likely to be in the labor force year-round, individuals under the age of 19 at the time of registration are excluded from the measure. This excludes many individuals who are students and is consistent with Title I of WIA in that there is no employment-specific retention rate measure for the younger youth (age 14–18) program. The job seeker retention measure is blind to conditions of the labor market. Thus, we will be developing methods to adjust for economic conditions and the characteristics of registered job seekers to use in adjusting performance goals and for interpreting final performance levels. Such methods are still being considered and will be addressed in a future notice. Like the measure for Title I of WIA, there is a substantial delay between when a job seeker registers with the labor exchange and when wage record information will become available for calculation of the measure. However, we believe that the benefit to be gained from this measure for program oversight outweighs the drawbacks associated with the need to wait until data become available.

We support the measure of employment retention at six months for the labor exchange as a measure that is consistent with those of other workforce development programs. An employment retention measure helps capture the quality of staff-assisted services such as referrals to employment, job search workshops, career guidance, and other services provided by labor exchange staff. Quality self-services and facilitated self-help services also provide job seekers with resources to maintain continued employment. Examples include job seekers who may enter temporary or short-term employment, but who pursue continued employment based in part on their experience with the labor exchange. The measure also can account for those who return to the labor exchange for assistance in finding their next job following a spell of temporary or short-term employment. In addition to serving as a point of entry into the One-Stop system, the labor exchange also fulfils an important function in assisting job seekers in entering and maintaining employment as they exit One-Stop partner programs.

(6) General Comments

Additionally, we received a number of comments on issues related to the performance measures in general. A number of these comments were requests for clearer definitions of such terms as ''registration,'' ''labor exchange,'' and ''satisfaction.'' With regard to registration, some commenters wanted clarification on how the measures would apply to job seekers using self-services, and asked whether additional measures would be developed exclusively for users of self-

services. Others were concerned that registration policies may differ from State to State, because some States only register job seekers who receive staff-assisted services while other States register job seekers who utilize self-services, facilitated self-help services, and/or staff-assisted services.

Response: Job seekers who receive staff-assisted services funded under the Wagner-Peyser Act will be counted as registered job seekers, as will individuals who are required to register with the labor exchange according to State law or policy. State agencies may establish their own policies about whether to register job seekers using self-services or facilitated self-help services. At this time, we have decided not to implement a policy that will require registration or establish mandatory performance measures for users of self-services or facilitated self-help services provided by the labor exchange. We will continue to use the term—labor exchange—in the same way it is used in the Wagner-Peyser Act (29 U.S.C. 49). At this time, we are not formally defining the term, ''satisfaction,'' but are using that term in the same context to which it is referred in the ACSI methodology currently approved by OMB for use under Title I of WIA.

There were other comments about the use of wage records, specifically, the delay in the availability of wage data and the difficulty in obtaining access to wage data for federal employees and military personnel. Several commenters wanted to ensure that procedures would be put in place to establish baseline data for setting performance goals and adjusting the measures to take into account such factors as economic conditions and the characteristics of the population served. One commenter suggested that the measures should be constructed to control for what otherwise would have happened to the registered job seekers, had they not registered with or used the labor exchange.

Response: We have established two performance measures that rely heavily on wage record data for calculation. We support the use of wage record data for performance measurement for the labor exchange to maintain consistency with the performance measurement system for Title I of WIA, and to ease the burden of administrative follow-up inherent in the current reporting system for the labor exchange. We are currently in the process of developing data validation procedures to support quality control in performance measurement and data collection. Data validation procedures will apply to the wage record information that is used for the labor exchange performance measures, as well as to administrative records used to identify job seekers and employers. In addition, we expect that the Wage Record Interchange System (WRIS) will provide State agencies with a tool to enhance the availability of employment outcome data used to indicate entry into employment and retention.

We acknowledge that many factors outside the control of the labor exchange will impact the prospects of registered job seekers entering and/or retaining employment. Although we have not yet developed methods to account for such factors, we plan to consider local and regional economic conditions and the socioeconomic characteristics of registered job seekers as performance goals are established and as the success in meeting such goals is evaluated. We will publish methods for establishing and adjusting performance goals in a future notice.

Finally, we received a number of suggestions for additional measures. Several commenters suggested additional employer measures, including a comparison of the number of employers receiving services compared to the total number of employers in the State, and a comparison of the number of job openings listed with the State agency compared to the total number of new hires occurring in a State. Other proposed measures included cost per entered employment, a measure of the length of it takes a job seeker to enter employment after registering with the labor exchange, and a measure relating the value-added of the labor exchange to its cost.

Response: We acknowledge that only one labor exchange performance measure applies specifically to employers, and that this is a measure of employers satisfaction with the One-Stop system in general, rather than with the labor exchange program in particular. We will continue to investigate additional techniques to assess the performance of the labor exchange in providing services to its employer customers. We will consider the measures suggested above as possibilities for any enhancements to the measurement strategy for employer services in particular and the labor exchange in general. In the meantime, States are free to adopt additional measures that they believe will enhance the delivery of labor exchange services.

C. Labor Exchange Performance Measures.

We establish four performance measures for the public labor exchange:

- Job Seeker Entered Employment Rate
- Job Seeker Employment Retention Rate at Six Months
- Job Seeker Customer Satisfaction
- Employer Customer Satisfaction

The labor exchange performance measures apply to public labor exchange services provided as part of the One-Stop delivery systems of the States. This includes labor exchange services provided to job seekers and employers under the Wagner-Peyser Act, and to veterans by Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Representative (LVER) staff under VETS programs, as specified in Title 38 of the U.S.C. Individual States may include other publicly-funded labor exchange services in the labor exchange performance measurement system at their discretion.

The labor exchange performance measures apply to all individuals who are registered job seekers with the public labor exchange, and to employers who receive substantial service involving personal contact with One-Stop staff. At a minimum, State agencies must request the following information from job seekers during registration: name, contact information, social security number, ethnicity, race, veteran status, age, gender, employment status, educational attainment, disability status, and migrant and seasonal farmworker status. Job seekers may be registered upon contacting the labor exchange through the One-Stop delivery system or as required by State law or policy; however, job seekers receiving staff-assisted services funded under the Wagner-Peyser Act must be registered. Job seekers who use self-services or facilitated self-help services also may be registered, but registration is not required for receipt of these services.

A job-seeking customer is counted as a registered job seeker during the quarter in which registration occurs (registration quarter) and the subsequent three quarters. This four quarter period constitutes the registration year. A registered job seeker who receives services during the fourth quarter after the registration quarter will begin a new registration year or be considered re-registered. Such a job seeker would then be counted again as a registered job seeker during each of the four reporting periods covering that registration year. If a job seeker's registration year elapses, and after some time he or she returns to the labor exchange, that job seeker would begin a new registration year.

The labor exchange performance measures are defined as follows:

(1) Job Seeker Entered Employment Rate (JSEER)

$$\text{JSEER} = \frac{\text{Number Entered Employment with a New Employer}}{\text{[Number Registered Job Seekers} - \text{Number Employed or Re-employed with Same Employer]}}$$

Elements of the measure are defined as follows:

Entered Employment with a New Employer: The number of registered job seekers who, in the first or second quarter following the registration quarter, earned wages from a new employer if the job seeker was previously not employed, or earned wages from a different employer than that from which the registered job seeker earned wages in the quarter prior to the registration quarter if the job seeker was previously employed.

Registered Job Seekers: Job seekers who registered with the labor exchange during the registration quarter; job seekers who were re-registered after their registration year expired; job seekers who were not formally re-registered, but who engaged in a labor exchange activity after their registration year expired.

Employed or Re-employed with Same Employer: Those job seekers whose only wages earned in the first and second quarter following registration were exclusively with the same employer from which wages were earned in the quarter prior to the registration quarter.

Registration Quarter: The calendar quarter in which a job seeker completed an initial registration with the labor exchange or in which a previously registered job seeker began a new registration year.

According to this measure, a successful employment outcome is recorded for a job seeker who enters employment with a new employer, whether the job seeker was employed or unemployed at the time of registration. This outcome is determined by comparing the employer identification numbers (EIN) of registered job seekers' employers prior to and following registration based on information contained in the UI wage record database, the State Directory of New Hires (SDNH) database, or other available records. An unsuccessful outcome is recorded for a job seeker who does not enter employment with a new employer during the measurement period. Job seekers who remain employed exclusively with the same employer during the measurement period are excluded from the calculation.

(2) Job Seeker Employment Retention Rate at Six Months (JSERR)

$$\text{JSERR} = \frac{\text{Number Retained Employment Two Quarters after Entered Employment with a New Employer (age 19 and over)}}{\text{Number Entered Employment with a New Employer (age 19 and over)}}$$

Elements of the measure are defined as follows:

Retained Employment Two Quarters after Entered Employment with a New Employer (age 19 and over): The number of registered job seekers age 19 and older at the time of registration who earned wages in the second quarter following the quarter in which they *Entered Employment with a New Employer.*

Entered Employment with New Employer (age 19 and over): The number of registered job seekers age 19 and older at the time of registration who, in the first or second quarter following the registration quarter, earned wages from a new or different employer than that from which the registered job seeker earned wages in the quarter prior to registration quarter.

According to this measure, a successful employment retention outcome is recorded for job seekers, age 19 and over at the time of registration, who are determined to have entered employment according to the job seeker entered employment rate measure, and who earned wages with *any* employer in the second quarter following the quarter in which they first were determined to have entered employment.

(3) Job Seeker Customer Satisfaction

The job seeker customer satisfaction measure for the public labor exchange is patterned after the participant customer satisfaction survey for Title I of WIA; it requires the use of the ACSI methodology. This methodology is published at TEGL 14–00, March 5, 2001. A sample of registered job seekers are surveyed between 60 and 90 days following the date of registration with the labor exchange. State agencies will be able to exercise some discretion in how they administer the survey, so long as the ACSI methodology is followed. Possibilities might range from surveying a population of registered job seekers in a distinct survey, to coordinating the job seeker customer satisfaction survey with the WIA participant customer satisfaction survey or any customer satisfaction survey that might be administered by VETS or another One-Stop partner program. In all cases, the ACSI methodology must be followed. We support the concept of common measurement techniques for services provided as part of the One-Stop delivery system and intend to provide States with the broadest opportunity to coordinate surveys of One-Stop customers' satisfaction.

We are currently engaging in discussions with the University of Michigan to use the ACSI for the labor exchange job seeker customer satisfaction measure. We will publish the specifications for the job seeker customer satisfaction survey, including the required questions and the survey methodology, as part of the ET Handbook No. 406 (ETA 9002 Data Preparation Handbook).

(4) Employer Customer Satisfaction

The public labor exchange will adopt the results of the ACSI survey administered under Title I of WIA to measure employer satisfaction with One-Stop employer services. Accordingly, States should administer only one survey of employers to measure their satisfaction with One-Stop employer services to meet both the WIA and the labor exchange employer customer satisfaction measurement requirements. Specifications for the employer customer satisfaction survey are described in TEGL 14–01, March 5, 2001.

Signed at Washington, D.C., this 23rd day of May, 2001.

Raymond J. Uhalde,

Deputy Assistant Secretary for Employment and Training.

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Part IV

Department of Labor

Delegation of Authorities and Assignment of Responsibilities to the Assistant Secretary for Employment Standards and Other Officials in the Employment Standards Administration; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 4–2001]

Delegation of Authorities and Assignment of Responsibilities to the Assistant Secretary for Employment Standards and Other Officials in the Employment Standards Administration

1. *Purpose.* To delegate authorities and assign responsibilities to the Assistant Secretary for Employment Standards and other officials in the Employment Standards Administration.

2. *Directives Affected.* This Order repeals and supersedes Secretary's Order 3–2001 (Employment Standards).

3. *Background.* This Order, which repeals and supersedes Secretary's Order 3–2001, constitutes the generic Secretary's Order for the Employment Standards Administration (ESA). Specifically, this Order delegates authority and assigns responsibilities to the Assistant Secretary for Employment Standards and other officials in ESA. Section 4.a. (29) delegates the duties and responsibilities of the Secretary of Labor under the Energy Employees Occupational Illness Compensation Program Act of 2000, Title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub L. 106–398), and Executive Order 13179 (''Providing Compensation to America's Nuclear Weapons Workers'') of December 7, 2000.

This Order also makes certain changes to the responsibilities contained in Section 4.a. (14) of this Order which are the result of the recent elimination of the President's Committee on the Employment of Persons with Disabilities and the creation of the Office of Disability Employment Policy. A formal delegation and reassignment of responsibilities for Sections 501(a), 501(f), and 502 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791(a), 791(f), and 792, will be made at a later date.

This Order also makes technical and conforming changes to the generic assignment of responsibility to the Office of the Chief Financial Officer in Section 4.f. of this Order.

a. *Delegation to the Assistant Secretary for Employment Standards.* Section 4.a. (29) of this Order contains the delegation of authority and assignment of responsibility for the Energy Employees Occupational Illness Compensation Program Act of 2000.

b. All other authorities and responsibilities set forth in this Order were delegated or assigned previously to the Assistant Secretary for Employment Standards and other officials in ESA in Secretary's Order 3–2001, and this Order continues those delegations and assignments in full force and effect, except as expressly modified herein.

4. *Delegation of Authority and Assignment of Responsibility.*

a. *The Assistant Secretary for Employment Standards* is hereby delegated authority and assigned responsibility, except as hereinafter provided, for carrying out the employment standards, labor standards, and labor-management standards policies, programs, and activities of the Department of Labor, including those functions to be performed by the Secretary of Labor under the designated provisions of the following statutes:

(1) The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201 *et seq.* (FLSA), including the issuance thereunder of child labor hazardous occupation orders and other regulations concerning child labor standards, and subpoena authority under 29 U.S.C. 209. Authority and responsibility for the Equal Pay Act, Section 6(d) of the FLSA, were transferred to the Equal Employment Opportunity Commission on July 1, 1979, pursuant to the President's Reorganization Plan No. 1 of February 1978, set out in the Appendix to Title 5, Government Organization and Employees.

(2) The Walsh-Healey Public Contracts Act of 1936, as amended, 41 U.S.C. 35 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health or the Assistant Secretary for Mine Safety and Health. The authority of the Assistant Secretary for Employment Standards includes subpoena authority under 41 U.S.C. 39.

(3) The McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 351 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health. The authority of the Assistant Secretary for Employment Standards includes subpoena authority under 41 U.S.C. 353(a).

(4) The Davis-Bacon Act, as amended, 40 U.S.C. 276a *et seq.*, and any laws now existing or subsequently enacted, providing for prevailing wage findings by the Secretary in accordance with or pursuant to the Davis-Bacon Act; the Copeland Act, 40 U.S.C. 276c; Reorganization Plan No. 14 of 1950; and the Tennessee Valley Authority Act, 16 U.S.C. 831.

(5) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 *et seq.*, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(6) Title III of the Consumer Credit Protection Act, 15 U.S.C. 1671 *et seq.*

(7) The labor standards provisions contained in Sections 5(i) and 7(g) of the National Foundation for the Arts and the Humanities Act, 20 U.S.C. 954(i) and 956(g), except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health.

(8) The Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1801 *et seq.*, including subpoena authority under 29 U.S.C. 1862(b).

(9) The Employee Polygraph Protection Act of 1988, 29 U.S.C. 2001 *et seq.*, including subpoena authority under 29 U.S.C. 2004(b).

(10) The Federal Employees' Compensation Act, as amended and extended, 5 U.S.C. 8101 *et seq.*, except 5 U.S.C. 8149, as it pertains to the Employees' Compensation Appeals Board.

(11) The Longshore and Harbor Workers' Compensation Act, as amended and extended, 33 U.S.C. 901 *et seq.*, except: 33 U.S.C. 919(d), with respect to administrative law judges in the Office of Administrative Law Judges; 33 U.S.C. 921(b), as it applies to the Benefits Review Board; and activities pursuant to 33 U.S.C. 941, assigned to the Assistant Secretary for Occupational Safety and Health.

(12) The Black Lung Benefits Act, as amended, 30 U.S.C. 901 *et seq.*

(13) The affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, except for monitoring of the Federal contractor job listing activities under 38 U.S.C. 4212(a) and the annual Federal contractor reporting obligations under 38 U.S.C. 4212(d), delegated to the Assistant Secretary for Veterans' Employment and Training.

(14) Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793; and Executive Order 11758 (''Delegating Authority of the President Under the Rehabilitation Act of 1973'') of January 15, 1974.

(15) Executive Order 11246 ''Equal Employment Opportunity'' (September 24, 1965), as amended by Executive Order 11375 of October 13, 1967; and Executive Order 12086 (''Consolidation of Contract Compliance Functions for Equal Employment Opportunity'') of October 5, 1978.

(16) The following provisions of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 *et seq.*

(INA): Section 218(g)(2), 8 U.S.C. 1188(g)(2), relating to assuring employer compliance with terms and conditions of employment under the temporary alien agricultural labor certification (H–2A) program; and Section 274A(b)(3), 8 U.S.C. 1324A(b)(3), relating to employment eligibility verification and related recordkeeping.

(17) Section 212(m)(2)(E)(ii) through (v) of the INA, 8 U.S.C. 1182(m)(2)(E)(ii) through (v), relating to the complaint, investigation, and penalty provisions of the attestation process for users of nonimmigrant registered nurses (*i.e.,* H–1A Visas).

(18) The enforcement of the attestations required by employers under the INA pertaining to the employment of nonimmigrant longshore workers, Section 258 of the INA, 8 U.S.C. 1288(c)(4)(B)–(F); and foreign students working off-campus, 8 U.S.C. 1184 note; and enforcement of labor condition applications for employment of nonimmigrant professionals, Section 212(n)(2) of the INA, 8 U.S.C. 1182(n)(2).

(19) Joint responsibility and authority with the Assistant Secretary for Employment and Training for enforcing the Equal Employment Opportunity in Apprenticeship and Training requirements, as identified in Secretary's Order 4–90.

(20) Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*, and the regulations at 41 CFR Part 60–742.

(21) The Family and Medical Leave Act of 1993, 29 U.S.C. 2601 *et seq.*, including subpoena authority under 29 U.S.C. 2616.

(22) The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, to conduct inspections and investigations, issue administrative subpoenas, issue citations, assess and collect penalties, and enforce any other remedies available under the statute, and to develop and issue compliance interpretations under the statute, with regard to the standards on:

(a) Field sanitation, 29 CFR 1928.110; and

(b) Temporary labor camps, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in ''agricultural employment'' within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that the Assistant Secretary for Occupational Safety and Health retains enforcement responsibility over temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

The authority of the Assistant Secretary for Employment Standards under the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps does not include any other agency authorities or responsibilities, such as rulemaking authority. Such authorities under the statute are retained by the Assistant Secretary for Occupational Safety and Health.

Moreover, nothing in this Order shall be construed as derogating from the right of States operating OSHA-approved State plans under 29 U.S.C. 667 to continue to enforce field sanitation and temporary labor camp standards if they so choose. The Assistant Secretary for Occupational Safety and Health retains the authority to monitor the activity of such States with respect to field sanitation and temporary labor camps.

(23) The Labor-Management Reporting and Disclosure Act of 1959, as amended, 29 U.S.C. 401 *et seq.*

(24) Section 701 (Standards of Conduct for Labor Organizations) of the Civil Service Reform Act of 1978, 5 U.S.C. 7120; Section 1017 of the Foreign Service Act of 1980, 22 U.S.C. 4117; Section 220(a)(1) of the Congressional Accountability Act of 1995, 2 U.S.C. 1351(a)(1); and the regulations pertaining to such sections at 29 CFR parts 457—459.

(25) Section 1209 of the Postal Reorganization Act of 1970, 39 U.S.C. 1209.

(26) The employee protection provisions of the Federal Transit law, as codified at 49 U.S.C. 5333(b), and related provisions.

(27) The employee protection provisions certified under Section 405 (a), (b), (c), and (e) of the Rail Passenger Service Act of 1970, 45 U.S.C. 565 (a), (b), (c), and (e).

(28) Executive Order 13201, (''the Notification of Employee Rights Concerning Payment of Union Dues or Fees'') of February 17, 2001.

(29) The Energy Employees Occupational Illness Compensation Program Act of 2000, Title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (P.L. 106–398), and Executive Order 13179 (''Providing Compensation to America's Nuclear Weapons Workers'') of December 7, 2000.

(30) Such additional Federal acts that from time to time may assign to the Secretary or the Department duties and responsibilities similar to those listed under subparagraphs (1)–(29) of this paragraph, as directed by the Secretary.

b. *The Wage and Hour Administrator of the Employment Standards Administration* is hereby delegated authority and assigned responsibility to:

(1) Issue administrative subpoenas under Section 9 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 209; Section 5 of the Walsh-Healey Public Contracts Act, 41 U.S.C. 39; Section 4(a) of the McNamara-O'Hara Service Contract Act, 41 U.S.C. 353(a); Section 512(b) of the Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1862(b); Section 5(b) of the Employee Polygraph Protection Act of 1988, 29 U.S.C. 2004(b); Section 106 of the Family and Medical Leave Act of 1993, 29 U.S.C. 2616; and Section 8(b) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(b), with respect to the authority delegated by this Order.

(2) Invoke all appropriate claims of privilege, arising from the functions of the Wage and Hour Division, following his/her personal consideration of the matter and in accordance with the following guidelines:

(a) *Informant's Privilege* (to protect from disclosure the identity of any person who has provided information to the Wage and Hour Division in cases arising under the statutory provisions listed in subparagraph 4.a. of this Order that are delegated or assigned to the Wage and Hour Division): A claim of privilege may be asserted where the Wage and Hour Administrator has determined that disclosure of the privileged matter may: interfere with the Wage and Hour Division's enforcement of a particular statute for which that Division exercises investigative or enforcement authority; adversely affect persons who have provided information to the Wage and Hour Division; or deter other persons from reporting violations of the statute.

(b) *Deliberative Process Privilege* (to withhold information which may disclose predecisional intra-agency or inter-agency deliberations, including: The analysis and evaluation of facts; written summaries of factual evidence; and recommendations, opinions, or advice on legal or policy matters; in cases arising under the statutory provisions listed in subparagraph 4.a. of this Order that are delegated or assigned to the Wage and Hour Division): A claim of privilege may be asserted where the Wage and Hour Administrator has determined that disclosure of the privileged matter would have an

inhibiting effect on the agency's decision-making processes.

(c) *Privilege for Investigative Files* compiled for law enforcement purposes (to withhold information which may reveal the Wage and Hour Division's confidential investigative techniques and procedures): The investigative files privilege may be asserted where the Wage and Hour Administrator has determined that disclosure of the privileged matter may have an adverse impact upon the Wage and Hour Division's enforcement of the statutory provisions that have been delegated or assigned to the Division in subparagraph 4.a. of this Order, by: Disclosing investigative techniques and methodologies; deterring persons from providing information to the Wage and Hour Division; prematurely revealing the facts of the Wage and Hour Division's case; or disclosing the identities of persons who have provided information under an express or implied promise of confidentiality.

(d) Prior to filing a formal claim of privilege, the Wage and Hour Administrator shall personally review: all the documents sought to be withheld (or, in cases where the volume is so large all of the documents cannot be personally reviewed in a reasonable time, an adequate and representative sample of such documents); and a description or summary of the litigation in which the disclosure is sought.

(e) In asserting a claim of governmental privilege, the Wage and Hour Administrator may ask the Solicitor of Labor or the Solicitor's representative to file any necessary legal papers or documents.

c. *The Wage and Hour Regional Administrators of the Employment Standards Administration* are hereby delegated authority and assigned responsibility to issue administrative subpoenas under Section 9 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 209; Section 5 of the Walsh-Healey Public Contracts Act, 41 U.S.C. 39; Section 4(a) of the McNamara-O'Hara Service Contract Act, 41 U.S.C. 353(a); Section 512(b) of the Migrant and Seasonal Agricultural Worker Protection Act of 1983, 29 U.S.C. 1862(b); Section 5(b) of the Employee Polygraph Protection Act of 1988, 29 U.S.C. 2004(b); Section 106 of the Family and Medical Leave Act of 1993, 29 U.S.C. 2616; and Section 8(b) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(b), with respect to the authority delegated by this Order.

d. *The Deputy Assistant Secretary for Federal Contract Compliance of the Employment Standards Administration* is hereby delegated authority and assigned responsibility to invoke all appropriate claims of privilege, arising from the functions of the Office of Federal Contract Compliance Programs (OFCCP), following his/her personal consideration of the matter and in accordance with the following guidelines:

(1) *Informant's Privilege* (to protect from disclosure the identity of any person who has provided information to OFCCP in cases arising under an authority delegated or assigned to OFCCP in subparagraph 4.a. of this Order): A claim of privilege may be asserted where the Deputy Assistant Secretary for Federal Contract Compliance has determined that disclosure of the privileged matter may: interfere with an investigative or enforcement action taken by OFCCP under an authority delegated or assigned to OFCCP in subparagraph 4.a. of this Order; adversely affect persons who have provided information to OFCCP; or deter other persons from reporting violations of the statute or other authority.

(2) *Deliberative Process Privilege* (to withhold information which may disclose predecisional intra-agency or inter-agency deliberations, including: the analysis and evaluation of facts; written summaries of factual evidence; and recommendations, opinions or advice on legal or policy matters; in cases arising under an authority delegated or assigned to OFCCP in subparagraph 4.a. of this Order): A claim of privilege may be asserted where the Deputy Assistant Secretary for Federal Contract Compliance has determined that disclosure of the privileged matter would have an inhibiting effect on the agency's decision-making processes.

(3) *Privilege for Investigative Files* compiled for law enforcement purposes (to withhold information which may reveal OFCCP's confidential investigative techniques and procedures): The investigative files privilege may be asserted where the Deputy Assistant Secretary for Federal Contract Compliance has determined that disclosure of the privileged matter may have an adverse impact upon OFCCP's enforcement of an authority delegated or assigned to OFCCP in subparagraph 4.a. of this Order, by: disclosing investigative techniques and methodologies; deterring persons from providing information to OFCCP; prematurely revealing the facts of OFCCP's case; or disclosing the identities of persons who have provided information under an express or implied promise of confidentiality.

(4) Prior to filing a formal claim of privilege, the Deputy Assistant Secretary shall personally review: all the documents sought to be withheld (or, in cases where the volume is so large that all of the documents cannot be personally reviewed in a reasonable time, an adequate and representative sample of such documents); and a description or summary of the litigation in which the disclosure is sought.

(5) In asserting a claim of governmental privilege, the Deputy Assistant Secretary for Federal Contract Compliance may ask the Solicitor or the Solicitor's representative to file any necessary legal papers or documents.

e. *The Assistant Secretary for Employment Standards and the Assistant Secretary for Occupational Safety and Health* are directed to confer regularly on enforcement of the Occupational Safety and Health Act with regard to the standards on field sanitation and temporary labor camps (see section 4.a. (22) of this Order), and to enter into any memoranda of understanding which may be appropriate to clarify questions of coverage which arise in the course of such enforcement.

f. *The Chief Financial Officer* is delegated authority and assigned responsibility, in accordance with applicable appropriations enactments, for establishing policies and procedures: that ensure the accounting, financial, and asset management systems of the Department are designed, maintained, and used effectively to provide financial or program performance data for financial statements; ensure financial and related program performance data are provided on a reliable, consistent, and timely basis; and, ensure that financial statements support assessments and revisions of mission-related processes and administrative processes and performance management of the program activities.

g. *The Assistant Secretary for Administration and Management* is delegated authority and assigned responsibility to assure that any transfer of resources effecting this Order is fully consistent with the budget policies of the Department and that consultation and negotiation, as appropriate, with representatives of any employees affected by this exchange of responsibilities is conducted. The Assistant Secretary for Administration and Management is also responsible for providing or assuring that appropriate administrative and management support is furnished, as required, for the efficient and effective operation of these programs.

h. *The Solicitor of Labor* is delegated authority and assigned responsibility for providing legal advice and assistance to all officers of the Department relating to the administration of the statutory provisions, regulations, and Executive Orders listed above. The bringing of legal proceedings under those authorities, the representation of the Secretary and/or other officials of the Department of Labor, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor.

5. *Reservation of Authority and Responsibility.*

a. The submission of reports and recommendations to the President and the Congress concerning the administration of the statutory provisions and Executive Orders listed above is reserved to the Secretary.

b. Nothing in this Order shall limit or modify the delegation of authority and assignment of responsibility to the Administrative Review Board by Secretary's Order 2–96 (April 17, 1996).

c. Except as expressly provided, nothing in this Order shall limit or modify the provisions of any other Order, including Secretary's Order 2–90 (Office of Inspector General).

6. *Redelegation of Authority.* The Assistant Secretary for Employment Standards, the Chief Financial Officer, the Assistant Secretary for Administration and Management, and the Solicitor of Labor may redelegate authority delegated in this Order.

7. *Effective Date.* This order is effective immediately.

Dated: May 24, 2001.

Elaine L. Chao,

Secretary of Labor.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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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.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 700/P.L. 107–9

Animal Disease Risk Assessment, Prevention, and Control Act of 2001 (May 24, 2001; 115 Stat. 11)

H.R. 428/P.L. 107–10

Concerning the participation of Taiwan in the World Health Organization. (May 28, 2001; 115 Stat. 17)

H.R. 1696/P.L. 107–11

To expedite the construction of the World War II memorial in the District of Columbia. (May 28, 2001; 115 Stat. 19)

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