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Contents

Federal Register

Vol. 66, No. 125

Thursday, June 28, 2001

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 66, No. 125
Thursday, June 28, 2001

Presidential Documents

Title 3—

The President

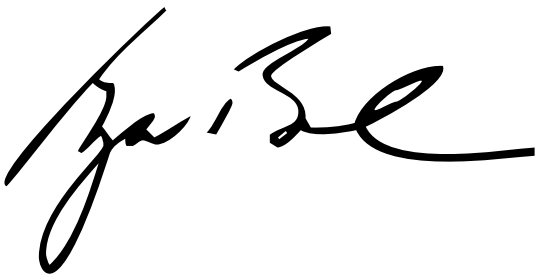
Presidential Determination No. 2001–18 of June 8, 2001

Determination Under Section 405(a) of the Trade Act of 1974, as amended, Concerning the Socialist Republic of Vietnam

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974, as amended (19 U.S.C. 2431 *et seq.*) (the ''Trade Act''), I determine, pursuant to section 405(a) of the Trade Act (19 U.S.C. 2435(a)), that the ''Agreement Between the United States of America and the Socialist Republic of Vietnam on Trade Relations'' will promote the purposes of the Trade Act and is in the national interest.

You are authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, June 8, 2001.

[FR Doc. 01–16445
Filed 6–27–01; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 2001–19 of June 11, 2001

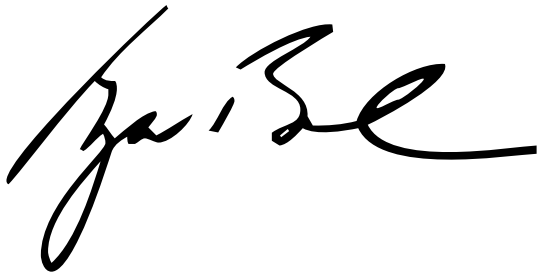
Suspension of Limitations Under the Jerusalem Embassy Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States, including section 7(a) of the Jerusalem Embassy Act of 1995 (Public Law 104–45) (the ''Act''), I hereby determine that it is necessary to protect the national security interests of the United States to suspend for a period of six months the limitations set forth in sections 3(b) and 7(b) of the Act. My Administration remains committed to beginning the process of moving our embassy to Jerusalem.

You are hereby authorized and directed to transmit this determination to the Congress, accompanied by a report in accordance with section 7(a) of the Act, and to publish the determination in the **Federal Register**.

This suspension shall take effect on June 15, 2001.



THE WHITE HOUSE,
Washington, June 11, 2001.

[FR Doc. 01–16446
Filed 6–27–01; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 66, No. 125
Thursday, June 28, 2001

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30254; Amdt. No. 2056]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date of reach SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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. For the same reason, the FAA certifies that this amendment will not have a 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 22, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME, or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective July 12, 2001*

Manistee, MI Manistee County-Blacker, ILS RWY 27, Orig
Sanford, NC, Sanford-Lee County Regional, NDB RWY 3, Orig
Sanford, NC, Sanford-Lee County Regional, NDB OR GPS RWY 3, ORIG-B, CANCELLED
Sanford, NC, Sanford-Lee County Regional, ILS RWY 3, Orig

** * * Effective September 6, 2001*

St. George, AK, St. George, RNAV (GPS)–B, Orig
St. George, AK, St. George, RNAV (GPS)–D, Orig
St. George, AK, St. George, GPS–B, Orig, CANCELLED
Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (GPS) RWY 7R, Orig
Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (GPS) RWY 25L, Orig
Walnut Ridge, AR, Walnut Ridge Regional, RNAV (GPS) RWY 18, Orig
Walnut Ridge, AR, Walnut Ridge Regional, RNAV (GPS) RWY 22, Orig
Walnut Ridge, AR, Walnut Ridge Regional, RNAV (GPS) RWY 36, Orig
Walnut Ridge, AR, Walnut Ridge Regional, GPS RWY 17, Orig, CANCELLED
Walnut Ridge, AR, Walnut Ridge Regional, GPS RWY 35, Orig, CANCELLED
Winfield/Arkansas City, KS, Strother Field, ILS RWY 35, Amdt 4
Winfield/Arkansas City, KS, Strother Field, RNAV RWY 17, Orig
Winfield/Arkansas City, KS, Strother Field, RNAV RWY 35, Orig
Winfield/Arkansas City, KS, Strother Field, NDB RWY 35, Amdt 4
Winfield/Arkansas City, KS, Strother Field, GPS RWY 35, Orig, CANCELLED
Winfield/Arkansas City, KS, Strother Field, VOR/DME RNAV RWY 35, Amdt 4, CANCELLED
Angleton/Lake Jackson, TX, Brazoria County, RNAV (GPS) RWY 17, Orig
Angleton/Lake Jackson, TX, Brazoria County, RNAV (GPS) RWY 35, Orig
Angleton/Lake Jackson, TX, Brazoria County, GPS RWY 17, Orig, CANCELLED
Angleton/Lake Jackson, TX, Brazoria County, GPS RWY 35, Orig, CANCELLED
St. George, UT, George Muni, RNAV (GPS) RWY 34, Orig
St. George, UT, George Muni, GPS RWY 34, Orig, CANCELLED
Casper, WY, Natrona County Intl, RNAV (GPS) Y RWY 3, Orig
Casper, WY, Natrona County Intl, RNAV (GPS) Z RWY 3, Orig
Casper, WY, Natrona County Intl, RNAV (GPS) RWY 8, Orig
Casper, WY, Natrona County Intl, RNAV (GPS) RWY 21, Orig
Casper, WY, Natrona County Intl, RNAV (GPS) RWY 26, Orig
Casper, WY, Natrona County Intl, GPS RWY 3, Orig, CANCELLED
Casper, WY, Natrona County Intl, GPS RWY 26, Orig, CANCELLED

[FR Doc. 01–16312 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30255; Amdt. No. 2057]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by

publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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. For the same reason, the FAA certifies that this amendment will not have a 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 22, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
04/23/01	NE	McCook	McCook Muni	1/3829	RNAV (GPS) Rwy 21, Orig
05/17/01	MT	Billings	Billings Logan Intl	1/4643	RNAV (GPS) Rwy 10L, Orig
06/04/01	OK	Guthrie	Guthrie Muni	1/3082	GPS Rwy 16, Orig
06/04/01	LA	Natchitoches	Natchitoches Regional	1/5390	LOC Rwy 34, Amdt 3A
06/04/01	LA	Natchitoches	Natchitoches Regional	1/5391	NDB or GPS Rwy 34, Amdt 4A
06/04/01	LA	Winnfield	David G. Joyce	1/5392	GPS Rwy 26, Orig
06/04/01	OK	Guthrie	Guthrie Muni	1/5408	NDB Rwy 16, Amdt 5
06/05/01	WA	Pasco	Tri-Cities	1/5427	VOR or GPS Rwy 21R, Amdt 4
06/05/01	WA	Pasco	Tri-Cities	1/5430	ILS Rwy 21R, Amdt 10A
06/06/01	CA	Sacramento	Sacramento Mather	1/5473	ILS Rwy 22L, Amdt 1
06/07/01	NY	Sidney	Sidney Muni	1/5483	RNAV (GPS) Rwy 25, Orig-A
06/07/01	NY	Sidney	Sidney Muni	1/5484	VOR Rwy 25, Amdt 2
06/07/01	NY	Sidney	Sidney Muni	1/5485	RNAV (GPS) Rwy 7, Orig
06/07/01	TX	Mc Allen	Mc Allen Miller Intl	1/5520	VOR Rwy 13, Amdt 15A
06/07/01	CA	Chico	Chico Muni	1/5524	VOR Rwy 13L, Amdt 9A
06/07/01	CA	Chico	Chico Muni	1/5525	VOR/DME Rwy 31R, Orig-B
06/07/01	CA	Chico	Chico Muni	1/5527	VOR/DME Rwy 31L, Amdt 7A
06/08/01	WI	Marshfield	Marshfield Muni	1/5546	SDF Rwy 34, Amdt 6A
06/08/01	FL	Florida	Hollwood	1/5584	GPS Rwy 9R, Orig
06/11/01	CA	Fresno	Fresno Yosemite Intl	1/5710	GPS Rwy 29R, Orig
06/11/01	CA	Fresno	Fresno Yosemite Intl	1/5711	VOR or TACAN Rwy 11L, Amdt 11A
06/11/01	CA	Fresno	Fresno Yosemite Intl	1/5712	GPS Rwy 11L, Orig
06/12/01	VA	Abingdon	Virginia Highland	1/5739	LOC Rwy 24, Amdt 2
06/14/01	NY	White Plains	Westchester County	1/5842	ILS Rwy 16, Amdt 22D
06/18/01	AK	Kipnuk	Kipnuk	1/5936	GPS Rwy 15, Orig.

[FR Doc. 01–16311 Filed 6–27–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30256; Amdt. No. 2058]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR), THe applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by references are available for examination or purchase as stated above.

The large number of SIAP's their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include ''or GPS or FMS'' in the title without otherwise reviewing or modifying the procedure. (once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove ''or GPS or FMS'' from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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. For the same reason, the FAA certifies that this amendment will not have a 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 22, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

** * * Effective September 6, 2001*

Emmonak, AK, VOR or GPS RWY 16, Orig, CANCELLED
Emmonak, AK, VOR RWY 16, Orig
Emmonak, AK, VOR or GPS RWY 34, Orig, CANCELLED
Emmonak, AK, VOR RWY 34, Orig
Birmingham, AL, Birmingham Intl, NDB or GPS RWY 6, Amdt 30B, CANCELLED
Birmingham, AL, Birmingham Intl, NDB RWY 6, Amdt 30B
Dothan, AL, Dothan Regional, VOR or GPS RWY 14, Amdt 3C, CANCELLED
Dothan, AL, Dothan Regional, VOR RWY 14, Amdt 3C
Dothan, AL, Dothan Regional, VOR or GPS RWY 18, Amdt 3B, CANCELLED
Dothan, AL, Dothan Regional, VOR RWY 18, Amdt 3B
Fort Smith, AR, Fort Smith Regional, VOR/DME or TACAN or GPS RWY 7, Amdt 10, CANCELLED
Fort Smith, AR, Fort Smith Regional, VOR/DME or TACAN RWY 7, Amdt 10
Fort Smith, AR, Fort Smith Regional, VOR or TACAN or GPS RWY 25, Amdt 20B, CANCELLED
Fort Smith, AR, Fort Smith Regional, VOR or TACAN RWY 25, Amdt 20B
Tucson, AZ, Tucson Intl, VOR/DME or TACAN or GPS RWY 29 R, Amdt 2A, CANCELLED
Tucson, AZ, Tucson Intl, VOR/DME or TACAN RWY 29R, Amdt 2A
Panama City, FL, Panama City-Bay County Intl, VOR or TACAN or GPS RWY 14, Amdt 15B, CANCELLED
Panama City, FL, Panama City-Bay County Intl, VOR or TACAN RWY 14, Amdt 15B
Panama City, FL, Panama City-Bay County Intl, VOR or TACAN or GPS RWY 32, Amdt 10B, CANCELLED
Panama City, FL, Panama City-Bay County Intl, VOR or TACAN RWY 32, Amdt 10B
Boise, ID, Boise Air Terminal (Gowen Field), VOR/DME or GPS RWY 10R, Orig-A, CANCELLED
Boise, ID, Boise Air Terminal (Gowen Field), VOR/DME RWY 10R, Orig-A
Peoria, IL, Greater Peoria Regional, VOR or TACAN or GPS RWY 13, Amdt 23B, CANCELLED
Peoria, IL, Greater Peoria Regional, VOR or TACAN RWY 13, and Amdt 23B
Peoria, IL, Greater Peoria Regional, VOR/DME RNAV or GPS RWY 22, Amdt 8, CANCELLED
Peoria, IL, Greater Peoria Regioinal, VOR/DME RNAV RWY 22, Amdt 8
Peoria, IL, Greater Peoria Regional, NDB or GPS RWY 31, Amdt 14A, CANCELLED
Peoria, IL, Greater Peoria Regional, NDB RWY 31, Amdt 14A
Colby, KS, Shaltz Field, NDB or GPS RWY 17, Orig-A, CANCELLED
Colby, KS, Shaltz Field, NDB RWY 17, Orig-A
Colombia, MO, Columbia Regional, VOR/DME or GPS RWY 20, Amdt 2A, CANCELLED
Colombia, MO, Columbia Regional, VOR/DME RWY 20, Amdt 2A
Colombia, MO, Columbia Regional, VOR or GPS RWY 13, Amdt 2, CANCELLED
Colombia, MO, Columbia Regional, VOR RWY 13, Amdt 2
Colombia, MO, Columbia Regional, NDB or GPS RWY 2, Amdt 8B, CANCELLED
Colombia, MO, Columbia Regional, NDB RWY 2, Amdt 8
Lebanon, MO, Floyd W. Jones Lebanon, NDB or GPS RWY 36, Amdt 5, CANCELLED
Lebanon, MO, Floyd W. Jones Lebanon, NDB RWY 36, Amdt 5
Washington, MO, Washington Memorial, VOR or GPS RWY 16, Amdt 1, CANCELLED
Washington, MO, Washington Memorial, VOR RWY 16, Amdt 1
Wilmington, NC, Wilmington Intl, NDB or GPS RWY 35, Amdt 16C, CANCELLED
Wilmington, NC, Wilmington Intl, NDB RWY 35, Amdt 16C
Mohall, ND, Mohall Muni, VOR/DME or GPS RWY 31, Amdt 2C, CANCELLED
Mohall, ND, Mohall Muni, VOR/DME RWY 31, Amdt 2C
Knoxville, TN, McGhee-Tyson, VOR or GPS RWY 23R, Amdt 6A, CANCELLED
Knoxville, TN, McGhee-Tyson, VOR RWY 23R, Amdt 6A
Knoxville, TN, McGhee-Tyson, NDB or GPS RWY 5L, Amdt 4, CANCELLED
Knoxville, TN, McGhee-Tyson, NDB RWY 5L, Amdt 4
Harlingen, TX, Harlingen/Valley Intl, NDB or GPS RWY 17L, Amdt 5A, CANCELLED
Harlingen, TX, Harlingen/Valley Intl, NDB RWY 17L, Amdt 5A
Harlingen, TX, Harlingen/Valley Intl, NDB or GPS RWY 17R, Amdt 11A, CANCELLED
Harlingen, TX, Harlingen/Valley Intl, NDB RWY 17R, Amdt 11A
Casper, WY, Natrona County Intl, VOR/DME or TACAN or GPS RWY 21, Amdt 7A, CANCELLED
Casper, WY, Natrona County Intl, VOR/DME or TACAN RWY 21, Amdt 7A
Casper, WY, Natrona County Intl, NDB or GPS RWY 8, Amdt 13, CANCELLED
Casper, WY, Natrona County Intl, NDB RWY 8, Amdt 13

[FR Doc. 01–16310 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4]

RIN 0960–AF59

Extension of Expiration Dates for Several Body System Listings

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: We adjudicate claims at the third step of our sequential evaluation process for evaluating disability using the Listing of Impairments (the Listings) under the Social Security and Supplemental Security Income (SSI) programs. This final rule extends until July 2, 2003, the date on which several body system listings will no longer be effective. We have made no revisions to the medical criteria in these listings; they remain the same as they now appear in the Code of Federal Regulations. This extension will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on impairments in these body systems at step three of our sequential evaluation process.

EFFECTIVE DATE: This final regulation is effective June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Deborah Barnes, Social Insurance Specialist, Office of Disability, Social Security Administration, 3–A–8 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–1203 or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet web site, Social Security Online, at *www.ssa.gov.*

SUPPLEMENTARY INFORMATION: We use the Listings in appendix 1 to subpart P of part 404 at the third step of the sequential evaluation process to evaluate claims filed by adults and children for benefits based on disability under the Social Security and SSI programs. The Listings are divided into parts A and B. We use the criteria in part A to evaluate the impairments of adults. We first use the criteria in part B to evaluate impairments of children. If the criteria in part B do not apply, then we will apply the medical criteria in part A.

In this final rule, we are extending until July 2, 2003, the dates on which several body system listings will no longer be effective to allow sufficient

time for us to revise them. These body systems are:

Growth Impairment (100.00)
Musculoskeletal System (1.00 and 101.00)
Special Senses and Speech (2.00 and 102.00)
Cardiovascular System (4.00 and 104.00)
Digestive System (5.00 and 105.00)
Genito-Urinary System (6.00 and 106.00)
Hemic and Lymphatic System (7.00 and 107.00)
Skin (8.00)
Endocrine System (9.00 and 109.00)
Multiple Body Systems (110.00)
Neurological (11.00 and 111.00)
Mental Disorders (12.00 and 112.00)
Neoplastic Diseases, Malignant (13.00 and 113.00)
Immune System (14.00 and 114.00)

As a result of medical advances in disability evaluation and treatment, and program experience, we should periodically review and update the Listings. We are extending these dates because we will not complete revised listings criteria for these body systems by the current expiration dates. Currently, we are in the process of revising these body system listings and intend to publish proposed and final rules for each body system listings in a timely manner, with all revisions complete prior to the new extension date.

We last extended the dates on which these body system listings would no longer be effective to July 2, 2001, in final rules published as follows:

- June 3, 1999 (64 FR 29786): Growth Impairment; Musculoskeletal System; Special Senses and Speech; Hemic and Lymphatic System; Skin; Endocrine System; Multiple Body Systems; Neurological; Mental Disorders; Neoplastic Diseases, Malignant; and Immune System.
- December 3, 1999 (64 FR 67719): Cardiovascular System, Digestive System, and Genito-Urinary System.

Until we publish revised language for each body system listings, the current listings language is valid for our program purposes.

Regulatory Procedures

Justification for Final Rule

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), we follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of our regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures for this rule. Good cause exists because this final rule only extends the date on which these body system listings will no longer be effective. It makes no substantive changes to those listings. The current regulations expressly provide that listings may be extended, as well as revised and promulgated again. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in these body system listings. However, without an extension of the expiration dates for these listings, we will lack regulatory criteria for assessing impairments in these body systems at the third step of the sequential evaluation process after the current expiration dates of these listings. In order to ensure that we continue to have regulatory criteria for assessing impairments under these listings, we find that it is in the public interest to make this rule effective on publication.

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this final rule in accordance with Executive Order (E.O.) 12866. We have also determined that this final rule meets the plain language requirement of E.O. 12866.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

This final rule imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: June 21, 2001.

Larry G. Massanari,

Acting Commissioner of Social Security.

For the reasons set forth in the preamble, part 404, subpart P, chapter III of title 20 of the Code of Federal Regulations is amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

Subpart P—[Amended]

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Appendix 1 to subpart P of part 404 is amended by revising items 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the introductory text before Part A to read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

* * * * *

1. Growth Impairment (100.00): July 2, 2003.
2. Musculoskeletal System (1.00 and 101.00): July 2, 2003.
3. Special Senses and Speech (2.00 and 102.00): July 2, 2003.

* * * * *

5. Cardiovascular System (4.00 and 104.00): July 2, 2003.
6. Digestive System (5.00 and 105.00): July 2, 2003.
7. Genito-Urinary System (6.00 and 106.00): July 2, 2003.
8. Hemic and Lymphatic System (7.00 and 107.00): July 2, 2003.
9. Skin (8.00): July 2, 2003.
10. Endocrine System (9.00 and 109.00): July 2, 2003.
11. Multiple Body Systems (10.00): June 19, 2008, and (110.00): July 2, 2003.
12. Neurological (11.00 and 111.00): July 2, 2003.
13. Mental Disorders (12.00 and 112.00): July 2, 2003.
14. Neoplastic Diseases, Malignant (13.00 and 113.00): July 2, 2003.
15. Immune System (14.00 and 114.00): July 2, 2003.

* * * * *

[FR Doc. 01–16251 Filed 6–27–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF JUSTICE

28 CFR Part 28

[OAG 101I; A.G. Order No. 2464–2001]

RIN 1105–AA78

Regulations Under the DNA Analysis Backlog Elimination Act of 2000

AGENCY: Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Department of Justice is publishing this interim rule to implement section 3 and related provisions of the DNA Analysis Backlog Elimination Act of 2000. The rule specifies the federal offenses that will be treated as qualifying offenses for purposes of collecting DNA samples from federal offenders, sets forth the responsibilities of the Bureau of Prisons for collecting DNA samples from individuals in its custody, and sets forth related responsibilities of the Federal Bureau of Investigation for analyzing and indexing DNA samples.

DATES: *Effective Date:* This interim rule is effective June 28, 2001.

Comment Date: Written comments must be submitted on or before August 27, 2001.

ADDRESSES: Send comments to David J. Karp, Senior Counsel, Office of Legal Policy, Room 4503, Main Justice Building, 950 Pennsylvania Avenue NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: David J. Karp, Senior Counsel, Office of Legal Policy, Room 4503, Main Justice Building, 950 Pennsylvania Avenue NW., Washington, DC 20530. Telephone: (202) 514–3273.

SUPPLEMENTARY INFORMATION: All 50 states authorize the collection and analysis of DNA samples from convicted state offenders, and entry of resulting information into the Combined DNA Index System (''CODIS''), which the Federal Bureau of Investigation (''FBI'') has established pursuant to 42 U.S.C. 14132. Until recently, however, there was no statutory authorization to collect DNA samples from convicted federal, military, and District of Columbia offenders. Congress acted to fill this gap in the DNA identification system through provisions of Public Law 106–546, the DNA Analysis Backlog Elimination Act of 2000 (the ''Act'').

Section 3 of the Act addresses the categories of federal offenders from whom DNA samples will be collected, the responsibility of the Bureau of Prisons (''BOP'') and federal probation offices to collect DNA samples from offenders in their custody or supervision, and the responsibility of the FBI to analyze and index DNA samples. This interim rule is issued pursuant to subsection (e) of section 3, which provides that, with the exception of the activities of the probation offices, the section shall be carried out under regulations prescribed by the Attorney General. The rule also addresses certain responsibilities of BOP and the FBI under other sections of the Act that are closely related to the matters addressed in section 3.

The rule adds a new part 28 to title 28 CFR relating to the DNA identification system. The new part contains subparts A and B, that relate respectively to the federal offenses for which DNA samples will be collected, and the responsibilities of BOP and the FBI in collecting, analyzing, and indexing DNA samples:

Subpart A—Qualifying Federal Offenses for Purposes of DNA Sample Collection

Subpart A of the rule specifies qualifying federal offenses for purposes of DNA sample collection. Section 3 of the Act, in part, requires BOP and probation offices to collect DNA samples from individuals in their custody or supervision who are, or have been, convicted of a ''qualifying Federal offense.'' Subsection (d) of section 3 of the Act states that qualifying federal offenses are those in a specified list ''as determined by the Attorney General.'' Since the statutory list is, for the most part, explicit about which code sections are covered, there is relatively little for the Attorney General to determine in the regulation. The specifications about covered federal offenses in section 3(d) of the Act, and their interpretation in subpart A of the new part 28 added by this rule, are as follows:

Paragraph (1)(A) of subsection (d) states that qualifying federal offenses include several offenses that involve or are related to homicide, identified by descriptive terms and code section citations—18 U.S.C. 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, and 1121. The regulation accordingly lists offenses under these provisions as qualifying federal offenses. However, only offenses of voluntary manslaughter are covered under 18 U.S.C. 1112, because the statutory reference to ''voluntary manslaughter'' in connection with this section indicates a clear legislative intent not to include involuntary manslaughter.

Paragraph (1)(B) of subsection (d) states that qualifying federal offenses include most of the offenses in the sex offense chapters of the federal criminal code—18 U.S.C. 2241, 2242, 2243, 2244, 2245, 2251, 2251A, 2252, 2421, 2422, 2423, and 2425. The regulation accordingly lists offenses under these provisions as qualifying federal offenses.

Paragraph (1)(C) of subsection (d) provides that qualifying federal offenses include the offenses under the peonage and slavery chapter of the criminal code (chapter 77). The regulation accordingly states that offenses under that chapter are qualifying federal offenses.

Paragraph (1)(D) of subsection (d) includes offenses under the federal criminal code that amount to kidnapping as defined in 18 U.S.C. 3559(c)(2)(E). The federal criminal code offenses that correspond most closely to this definition are the general kidnapping offense (defined in 18 U.S.C. 1201), and the hostage-taking offense defined in 18 U.S.C. 1203, which is essentially a form of kidnapping in which the purpose is to coerce a third party or governmental organization. The regulation accordingly lists offenses under these provisions as qualifying federal offenses.

Paragraph (1)(E) of subsection (d) includes as qualifying federal offenses several offenses under the robbery and burglary chapter of the criminal code (chapter 103)—18 U.S.C. 2111, 2112, 2113, 2114, 2116, 2118, and 2119. The regulation accordingly lists offenses under these provisions as qualifying federal offenses.

Paragraph (1)(F) of subsection (d) includes as qualifying federal offenses several types of offenses under the major crimes act for Indian country (18 U.S.C. 1153). This is the provision under which the federal government has jurisdiction to prosecute most serious crimes committed in Indian country. The specific offense types referenced in paragraph (1)(F) are murder, manslaughter, kidnapping, maiming, felonies under the sexual abuse chapter of the criminal code (chapter 109A), incest, arson, burglary, and robbery. Where federal law provides a general definition for such an offense in areas subject to exclusive federal jurisdiction, the case is charged under the pertinent federal law provision, with jurisdiction premised on 18 U.S.C. 1153. This is true, in particular, of murder (18 U.S.C. 1111), manslaughter (18 U.S.C. 1112), kidnapping (18 U.S.C. 1201(a)(2)), maiming (18 U.S.C. 114), felony sexual abuse (various offenses under title 109A of title 18), arson (18 U.S.C. 81), and robbery (18 U.S.C. 2111). Where federal law provides no such definition, the case is charged under the law of the state where the offense occurred, with jurisdiction premised on 18 U.S.C. 1153.

This is true, in particular, of incest and burglary. The regulation accordingly includes the specified offenses as qualifying federal offenses, where jurisdiction is based on 18 U.S.C. 1153.

Paragraph (1)(G) of subsection (d) includes as qualifying federal offenses attempts and conspiracies to commit offenses that are otherwise covered. Many of the particular offense provisions that are listed in the regulation encompass attempted offenses—for example, 18 U.S.C. 1113, 1201(d), and 2241–43. Since there is no general attempt provision in the federal criminal code, there are no additional attempt offenses that could be listed in the regulation. Some of the particular offense provisions that are listed in the regulation also explicitly encompass conspiracies, such as 18 U.S.C. 1117 and 1201(c). In addition, however, there is a general conspiracy provision in the federal criminal code, 18 U.S.C. 371. The regulation accordingly includes offenses under 18 U.S.C. 371 as qualifying federal offenses where an object of the conspiracy was the commission of a qualifying federal offense.

Subpart B—DNA Sample Collection, Analysis, and Indexing

Section 28.11 in the rule provides definitions for ''DNA sample'' and ''DNA analysis'' that are taken verbatim from section 3(c) of the Act.

Section 28.12, in paragraph (a), directs BOP to collect a DNA sample from each individual in its custody who is, or has been, convicted of a qualifying federal offense, a qualifying military offense, or a qualifying District of Columbia offense. The requirement that BOP collect DNA samples from individuals convicted of qualifying federal offenses and qualifying military offenses appears in section 3(a)(1) of the Act. The requirement to collect samples from individuals convicted of qualifying District of Columbia offenses appears in section 4, rather than section 3, of the Act (specifically, section 4(a)(1)). It is included in this regulation for logical completeness in describing BOP's DNA sample collection responsibilities under the Act.

Section 28.12, in paragraph (b), qualifies paragraph (a)'s requirement by affording BOP discretion about taking a DNA sample from an individual who is already in CODIS, or from whom a DNA sample has been collected pursuant to the provisions for collection of DNA samples from military offenders by the Department of Defense. This discretionary authority, which BOP could utilize to avoid duplicative sample collection, tracks sections 3(a)(3) and 4(a)(3) of the Act.

Section 28.12, in paragraph (c), provides in part that individuals described in paragraph (a) shall cooperate in the collection of DNA samples by BOP. This obligation on inmates is correlative to BOP's legal duty to collect DNA samples from them, and arises directly from sections 3(a)(5) and 4(a)(5) of the Act, which prescribe criminal penalties for individuals who fail to cooperate in DNA sample collection authorized by the Act.

Section 28.12, in paragraph (c), further provides that BOP may use or authorize the use of such means as are reasonably necessary to detain, restrain, and collect a DNA sample from an individual described in paragraph (a) who refuses to cooperate in the collection of the sample. This is taken directly from sections 3(a)(4) and 4(a)(4) of the Act. While inmates will normally cooperate voluntarily in DNA sample collection, or be persuaded to do so by the prospect of disciplinary action if they refuse to cooperate, taking a sample involuntarily from a recalcitrant individual may occasionally be necessary. The involuntary taking of a blood sample may in some instances be required under existing procedures for other purposes, such as medical evaluation, see 28 CFR 549.13(a)(3), or compliance with a court order to take such a sample for evidentiary purposes. Existing regulations regarding the use of force where necessary to enforce institutional regulations or for other purposes will continue to apply in relation to inmates who refuse to cooperate in the collection of a DNA sample. See 28 CFR part 552, subpart C.

Section 28.12, in paragraph (d)—tracking sections 3(a)(4)(B) and 4(a)(4)(B) of the Act—states that BOP may enter into agreements with units of State or local government or with private entities to provide for the collection of DNA samples. This makes it clear, for example, that BOP can arrange to have DNA samples collected from inmates in contract facilities by contract facility personnel.

Section 28.12, in paragraph (e), directs BOP to furnish each DNA sample to the FBI (for purposes of analysis and indexing in CODIS). This is explicitly required by sections 3(b) and 4(b) of the Act.

Section 28.13 directs the FBI to carry out a DNA analysis on each DNA sample furnished to it pursuant to section 3(b) or 4(b) of the Act, and to include the results in CODIS. The cited statutory provisions explicitly require the FBI to carry out these functions. Section 28.5 further provides that the FBI must include in CODIS the results of analyses furnished by the Department of Defense, which is required by 10 U.S.C. 1565(b)(2). The FBI is not required to analyze the samples collected by the Department of Defense, because the Department of Defense is responsible for carrying out that function, as provided in 10 U.S.C. 1565(b)(1).

Good Cause Exception

The implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(3)(B) and (d)(3). The rule implements section 3 of Public Law 106–546, which requires that the Attorney General determine qualifying federal offenses for purposes of DNA sample collection not later than 120 days after enactment, that the collection of DNA samples from covered offenders commence not later than 180 days after enactment, and that the requirements of the section generally be carried out under regulations prescribed by the Attorney General. Given that section 3 requires that an initial determination of qualifying federal offenses be made within 120 days, Congress must have been aware that it would not be feasible within that time period to publish a proposed rule for notice and comment, as well as a subsequent final rule, and for the period of the final rule's delayed effective date to have run. Public Law 106–546 is explicit and comprehensive concerning the types of offenses that will be treated as qualifying federal offenses and concerning the powers and responsibilities of the Bureau of Prisons and other agencies in collecting, analyzing, and indexing DNA samples. In light of the short statutory time frame for the implementation of this law and the fact that the formulation of implementing regulations requires no significant exercises of discretion, it is impracticable and unnecessary to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b) or with the delayed effective date normally required under 5 U.S.C. 553(d).

Moreover, the collection, analysis, and indexing of DNA samples as required by Public Law 106–546 furthers important public safety interests by facilitating the solution and prevention of crimes, see H.R. Rep. No. 900, 106th Cong., 2d Sess. 8–11 (2000) (House Judiciary Committee report), and delay in the law's implementation would thwart or delay the realization of these public safety benefits. Dangerous offenders who might be successfully identified through DNA matching may

be released from prison or reach the end of supervision before DNA sample collection can be carried out, thereby remaining at large to engage in further crimes against the public. Furthermore, delay in collecting, analyzing, and indexing DNA samples, and hence in the identification of offenders, may foreclose prosecution due to the running of statutes of limitations. Failure to identify, or delay in identifying, offenders as the perpetrators of crimes through DNA matching also increases the risk that innocent persons may be wrongfully suspected, accused, or convicted of such crimes. Therefore, it would be 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) or with the delayed effective date normally required under 5 U.S.C. 553(d).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: The regulation concerns the collection, analysis, and indexing by federal agencies of DNA samples from certain offenders.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation 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 Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

This regulation 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 one year, and it 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.

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 Fairness 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, or innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 28

Crime, Law enforcement, Prisons, Prisoners, Probation and parole.

For the reasons stated in the preamble, the Department of Justice amends 28 CFR Chapter I by adding part 28, to read as follows:

PART 28—DNA IDENTIFICATION SYSTEM

Subpart A—Qualifying Federal Offenses for Purposes of DNA Sample Collection

Sec.
28.1 Purpose.
28.2 Determination of offenses.

Subpart B—DNA Sample Collection, Analysis, and Indexing

28.11 Definitions.
28.12 Collection of DNA samples.
28.13 Analysis and indexing of DNA samples.

Authority: 28 U.S.C. 509, 510; 42 U.S.C. 14132, 14135a, 14135b; 10 U.S.C. 1565; Pub. L. 106–546, 114 Stat. 2726.

Subpart A—Qualifying Federal Offenses for Purposes of DNA Sample Collection

§ 28.1 Purpose.

Section 3 of Public Law 106–546 (114 Stat. 2726) directs the collection, analysis, and indexing of a DNA sample from each individual in the custody of the Bureau of Prisons or under the supervision of a probation office who is, or has been, convicted of a qualifying Federal offense. Subsection (d) of that section states that the offenses that shall be treated as qualifying Federal offenses are offenses under title 18, United States Code, contained in a list of descriptive terms and code sections, as determined by the Attorney General.

§ 28.2 Determination of offenses.

The following offenses shall be treated for purposes of section 3 of Public Law 106–546 as qualifying Federal offenses:

(a) Any offense under section 1111, 1113, 1114, 1116, 1117, 1118, 1119, 1120, 1121, 2241, 2242, 2243, 2244, 2245, 2251, 2251A, 2252, 2421, 2422, 2423, 2425, 1201, 1203, 2111, 2112, 2113, 2114, 2116, 2118, or 2119 of title 18, United States Code.

(b) Any offense of voluntary manslaughter under section 1112 of title 18, United States Code.

(c) Any offense under chapter 77 of title 18, United States Code.

(d) Any offense of murder, manslaughter, kidnapping, maiming, incest, arson, burglary, or robbery, and any felony under chapter 109A of title 18, United States Code, where jurisdiction was based on section 1153 of title 18, United States Code.

(e) Any offense under section 371 of title 18, United States Code, in which an object of the conspiracy was the commission of an offense described in paragraph (a), (b), (c), or (d) of this section.

Subpart B—DNA Sample Collection, Analysis, and Indexing

§ 28.11 Definitions.

The following definitions apply to this part:

DNA sample means a tissue, fluid, or other bodily sample of an individual on which a DNA analysis can be carried out.

DNA analysis means analysis of the deoxyribonucleic acid (DNA) identification information in a bodily sample.

§ 28.12 Collection of DNA samples.

(a) The Bureau of Prisons shall collect a DNA sample from each individual in the custody of the Bureau of Prisons who is, or has been, convicted of—

(1) A qualifying Federal offense as described in § 28.2;

(2) A qualifying military offense, as determined under 10 U.S.C. 1565; or (3) A qualifying District of Columbia offense, as determined under section 4(d) of Public Law 106–546.

(b) Notwithstanding paragraph (a) of this section, the Bureau of Prisons may, but need not, collect a DNA sample from an individual described in

paragraph (a) of this section if the Combined DNA Index System contains a DNA analysis with respect to that individual, or if a DNA sample has been collected from that individual under 10 U.S.C. 1565.

(c) Each individual described in paragraph (a) of this section shall cooperate in the collection of a DNA sample from that individual by the Bureau of Prisons. The Bureau of Prisons may use or authorize the use of such means as are reasonably necessary to detain, restrain, and collect a DNA sample from an individual described in paragraph (a) of this section who refuses to cooperate in the collection of the sample.

(d) The Bureau of Prisons may enter into agreements with units of State or local government or with private entities to provide for the collection of samples under this section.

(e) The Bureau of Prisons shall furnish each DNA sample collected under this section to the Federal Bureau of Investigation.

§ 28.13 Analysis and indexing of DNA samples.

(a) The Federal Bureau of Investigation shall carry out a DNA analysis on each DNA sample furnished to the Federal Bureau of Investigation pursuant to section 3(b) or 4(b) of Public Law 106–54, and shall include the results in the Combined DNA Index System.

(b) The Federal Bureau of Investigation shall include in the Combined DNA Index System the results of each analysis furnished to the Federal Bureau of Investigation pursuant to section 1565(b)(2) of title 10, United States Code.

Dated: June 21, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–16171 Filed 6–27–01; 8:45 am]

BILLING CODE 4410–19–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–060]

RIN 2115–AA97

Safety Zone; Middle Bass Island, Lake Erie, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone at Put-In-Bay, Middle Bass Island, Ohio. This safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays. This zone is intended to restrict vessels from a portion of Put-In-Bay for the City of Put-In-Bay July 4, 2001, fireworks display.

DATES: This rule is effective from 5 p.m. until 11 p.m. on July 4, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–060] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Toledo, 420 Madison Ave, Suite 700, Toledo, Ohio, 43604 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Herb Oertli, Chief of Port Operations, Marine Safety Office, 420 Madison Ave, Suite 700, Toledo, Ohio 43604; (419) 418–6050.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule it effective less than 30 days after publication in the **Federal Register**. The Coast Guard had insufficient advance notice to publish an NPRM followed by a temporary final rule. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

This temporary rule is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the City of Put-In-Bay July 4, 2001 Fireworks. The fireworks display will occur between 5 p.m. and 11 p.m. on July 4.

This safety zone will encompass all waters and the adjacent shoreline of Put-In-Bay Middle Bass Island, Ohio, bounded by an arc of a circle with a 800-foot radius with its center in approximate position 41°40′15″ N, 082°48′35″ W. The Captain of the Port Toledo or his designated on scene representative may terminate this event.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Toledo or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

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

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 may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of Put-In-Bay off Middle Bass Island, Ohio.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only a few hours on one day and vessel traffic can pass safely around the safety 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. If the rule would affect your

small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Toledo (see **ADDRESSES**).

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

Collection of Information

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

Federalism

We have analyzed this rule under 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 having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

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), 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–942 is added to read as follows:

§ 165.T09–942 Safety zone: Put-In-Bay, Middle Bass Island, Ohio

(a) *Location.* All waters and the adjacent shoreline of Put-In-Bay, Middle Bass Island, Ohio, bounded by the arc of a circle with a 800-foot radius with its center in approximate position 41°40′15″ N, 082°48′35″ W. (NAD 1983).

(b) *Effective period.* This section is effective from 5 p.m. until 11 p.m., July 4, 2001.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 18, 2001.

David L. Scott,

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

[FR Doc. 01–16320 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–093]

RIN 2115–AA97

Safety Zone: Naval Force Protection, Bath Iron Works, Kennebec River, Bath, ME

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone to close a portion of the Kennebec River to waterway traffic in a 400-foot radius around Bath Iron Works, Bath, Maine for the protection of Naval Forces, from 12 p.m. June 16, 2001 to 12 p.m. September 30, 2001. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This rule is effective from 12 p.m. June 16, 2001 to 12 p.m. September 30, 2001.

ADDRESSES: Comments should be mailed to: Commanding Officer, U.S. Coast Guard Marine Safety Office, 103 Commercial St., Portland Maine 04101–4726. The Port Operations Department, Coast Guard Marine Safety Office maintains the public docket for this rule making. 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 the Coast Guard Marine Safety Office between 8 a.m. and 4 p.m., Monday through Friday, except for Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant E. J. Doucette, Chief of Port Operations, Captain of the Port, Portland, Maine at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Regulatory History

As authorized by 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Due to the complex planning and coordination involved, final details for the closure were not provided to the Coast Guard until May 31, 2001, making it impossible to pulblish a NPRM or a final rule 30 days in advance. Any delay encountered in this regulation's effective date would be contrary to the public interest since immediate action is needed to safeguard the Naval vessels moored at the Bath Iron Works facility, the public and the surrounding area from sabotage or other subversive acts, accidents, or other causes of a similar nature.

Background and Purpose

A safety zone was established by the Captain of the Port Portland, Maine, April 26, 2001 in the **Federal Register** Volume 66, Number 81, pages 20926–20927. That safety zone prohibited entry into all waters of the Kennebec River within a 400-foot radius of Bath Iron Works, Bath, Maine from 7 a.m. April 4, 2001 through 12 p.m. June 16, 2001. Due to continuing security concerns, a safety zone is prudent for an additional period of time. The safety zone will be effective from 12 p.m. June 16, 2001 to 12 p.m. September 30, 2001 at Bath Iron Works, Bath, Maine. This regulation establishes a safety zone in the waters of the Kennebec River. This safety zone is required to protect the Naval personnel, facilities, and vessels from the hazards associated with terrorism. Entry into this zone will be prohibited unless authorized by the Captain of the Port.

Regulatory Evaluation

This temporary final 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. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary for the following reasons: This safety zone is limited in scope, involves only a portion of the Kennebec River, allowing vessels to safely navigate the river channel, and navigate around the safety zone without delay. Maritime advisories will be made in advance of and during the effective dates of the safety zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. 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 theses 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 contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and have determined that this rule does not have sufficient federalism 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 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 affect 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 section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Protection of Children

The Coast Guard has 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

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

Energy Effects

The Coast Guard has analyzed this rule under Executive Order 13211,

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

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

2. Add temporary § 165.T01–093 to read as follows:

§ 165.T01–093 Naval Force Protection, at Bath Iron Works, Kennebec River, Bath, Maine

(a) *Location.* The following is a safety zone: all waters in a 400-foot radius around Bath Iron Works, Bath, Maine.

(b) *Effective date.* This section is effective from 12 p.m. June 16, 2001 to 12 p.m. September 30, 2001.

(c) *Regulations.* (1) The general regulations contained in § 165.23 and the regulations specifically relating to safety zones in § 165.20 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene personnel. Upon being hailed by designated personnel via siren, radio, flashing light, bullhorn or other means, the operator of the vessel shall proceed as directed.

(3) Entry or movement within this zone is prohibited unless authorized by the Captain of Port, Portland, Maine.

Dated: June 15, 2001.

Roy A. Nash,

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

[FR Doc. 01–16319 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–01–012]

RIN 2115–AA97

Safety Zone; Fireworks Display, Columbia River, Vancouver, Washington

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the waters of Columbia River in the vicinity of Vancouver, Washington from 6 p.m. to 11 p.m. (PDT) on July 4, 2001 to safeguard watercraft and their occupants from safety hazards associated with a fireworks display.

DATES: This regulation is effective from 6 p.m. (PDT) to 11 p.m. (PDT) on July 4, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will be available for inspection or copying at the U.S. Coast Guard Group/MSO Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander William Clark, c/o Captain of the Port, Portland 6767 N. Basin Avenue, Portland, Oregon 97217, (503) 240–9317.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the fireworks launching barge. Due to the complex planning and coordination, the event sponsor, the Fort Vancouver Fireworks Committee, was unable to provide the Coast Guard with notice of the final details until less than 30 days prior to the date of the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

The Coast Guard is promulgating a temporary safety zone regulation to allow a safe fireworks display. The fireworks display is scheduled to start at 10 p.m. (PDT) on July 4, 2001. This event may result in a number of vessels congregating near the fireworks launching barge. The zone is needed to protect watercraft and their occupants from safety hazards associated with fireworks display. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal agencies and local agencies.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures act of DOT is unnecessary. This expectation is based on the fact that the regulated area established by the proposed regulation would encompass less than one mile of the Columbia for a period of only five hours.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' includes 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit a portion of the Columbia River from 6 p.m. to 11 p.m. on July 4, 2001. This safety zone will not have significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only 5 hours in the

evening when vessel traffic is low. The safety zone will not apply to the entire width of the river, and traffic will be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

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.

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).

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.

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this final 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 (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for temporary safety zones of less than one week in duration. This rule establishes a safety zone with a duration of five hours.

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—[AMENDED]

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, 160.5; 49 CFR 1.46.

2. A temporary § 165.T13–006 is added to read as follows:

§ 165.T13–006 Safety Zone; Columbia River Vancouver, Washington.

(a) *Location.* The following area is a safety zone: all waters of the Columbia River at Vancouver, Washington bounded by a line commencing at the northern base of the Interstate 5 highway bridge at latitude 45 degrees 37 minutes 17 seconds N, longitude 122 degrees 40 minutes 22 seconds W; thence south along the Interstate 5 highway bridge to latitude 45 degrees 37 minutes 03 seconds N, longitude 122 degrees 40 minutes 32 seconds W; thence east to latitude 45 degrees 36 minutes 28 seconds N, longitude 122 degrees 38 minutes 35 seconds W; thence to Ryan's Point at latitude 45 degrees 36 minutes 42 seconds N, longitude 122 degrees 38 minutes 35 seconds W; thence along the Washington shoreline to the point of origin. (Datum NAD 83).

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

(c) *Effective date.* This regulation is effective on July 4, 2001 from 6 p.m. (PDT) to 11 p.m. (PDT).

Dated: June 15, 2001.

James D. Spitzer,

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

[FR Doc. 01–16318 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–00–011]

RIN 2115–AA97

Safety Zone; Fireworks Display, Columbia River, Astoria, Oregon

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Columbia River in the vicinity of Astoria, Oregon. This safety zone is being created in response to a July 4, 2001, evening fireworks display. The Coast Guard is taking this action to safeguard watercraft and their occupants from safety hazards associated with the fireworks display.

DATES: This regulation is effective from 9 p.m. (PDT) to 11 p.m. (PDT) on July 4, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will be available for inspection or copying at the U.S. Coast Guard Group/MSO Portland, 6767 N. Basin Ave, Portland, Oregon 97217, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander William Clark, (503) 240–9317.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the fireworks launching area. Due to the complex planning and coordination, the event sponsor, the Astoria Fireworks Committee, was unable to provide the Coast Guard with notice of the final details until less than 30 days prior to the date of the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

The Coast Guard is promulgating a temporary safety zone regulation to allow a safe fireworks display. The fireworks display is scheduled to start at 10 p.m. (PDT) on July 4, 2001. This event may result in a number of vessels congregating near the fireworks launching area. The zone is needed to protect watercraft and their occupants from safety hazards associated with fireworks display. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal agencies and local agencies.

The safety zone will encompass all waters of the Columbia River at Astoria, Oregon enclosed by the following points: North from the Oregon shoreline at 123 degrees 12 minutes north latitude, thence east to 123 degrees 49.3 minutes west longitude, thence south to the Oregon shoreline, thence westerly along the Oregon shoreline to the point of origin. (Datum NAD 1983). Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule under that Order. This rule is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures act of DOT is unnecessary. This expectation is based on the fact that the regulated area established by the proposed regulation would encompass less than one mile of the Columbia River for a period of only two hours.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' include 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit a portion of the Columbia River from 9 p.m. to 11 p.m. on July 4, 2001. This safety zone will not have significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only 2 hours in the evening when vessel traffic is low. The safety zone will not apply to the entire width of the river, and traffic will be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

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.

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 final 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 (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for temporary safety zones of less than one week in duration. This rule establishes a safety zone with a duration of two hours.

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—[AMENDED]

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, 160.5; 49 CFR 1.46.

2. A temporary § 165.T13–005 is added to read as follows:

§ 165.T13–005 Safety Zone; Columbia River Astoria, Oregon.

(a) *Location.* The following area is a safety zone: All waters of the Columbia River at Astoria, Oregon encompassed by a line drawn north from the Oregon shoreline at 123 degrees 12 minutes north latitude, thence east to 123 degrees 49.3 minutes west longitude, thence south to the Oregon shoreline, thence westerly along the Oregon shoreline to the point of origin. (Datum NAD 1983).

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

(c) *Effective date and time.* This section is effective on July 4, 2001, from 9 p.m. (PDT) to 11 p.m. (PDT).

Dated: June 15, 2001.

James D. Spitzer,

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

[FR Doc. 01–16317 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201, 202, 203, 204, 205 and 211

[Docket No. RM 2001–5]

Copyright Rules and Regulations: Copyright, Registration of Claims to Copyright, Freedom of Information, Privacy, Service of Process, Mask Works

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule; Technical amendments.

SUMMARY: The Copyright Office has reviewed its regulations and is making non-substantive clarifying and corrective technical amendments.

EFFECTIVE DATE: June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Renee Coe, Senior Attorney Advisor, or Sandra Jones, Writer Editor, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: The Copyright Office has completed its annual review of Copyright Office regulations, and by this document, adopts non-substantive amendments to clarify, update and correct the text of the regulations. As part of this review, the Office removed §§ 211.5(f) and 201.15 because their regulatory authority had either expired or been repealed by the Semiconductor Chip Protection Act of 1984, as amended, Public Law 100–159, (1987) and the Work Made for Hire and Copyright Corrections Act of 2000, Public Law 106–379 (2000). The Office also added a section on limited purpose addresses for certain time sensitive communications and made other changes to correct minor errors.

List of Subjects

37 CFR Part 201

Copyright.

37 CFR Part 202

Claims, Copyright.

37 CFR Part 203

Freedom of information.

37 CFR Part 204

Privacy.

37 CFR Part 205

Copyright, Service of process.

37 CFR Part 211

Copyright, Mask works.

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Sections 201.1(a) and (b) are revised to read as follows:

§ 201.1 Communications with the Copyright Office.

(a) *General purpose addresses.* The following addresses may be used for general inquiries made to a particular division or section of the Copyright Office. Addresses for special, limited purposes are provided below in paragraph (b) of this section.

(1) In general. Mail and other communications shall be addressed to the Register of Copyrights, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559–6000.

(2) Inquiries to Licensing Division. Inquiries about filings related to the compulsory licenses (17 U.S.C. 111, 114, 115, 118, 119 and chapter 10) should be addressed to the Library of Congress, Copyright Office, Licensing Division, 101 Independence Avenue, SE., Washington, DC 20557–6400.

(3) Copies of records or deposits. Requests for copies of records or deposits should be addressed to the Certifications and Documents Section, LM–402, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559–6302.

(4) Search of records. Requests for searches of registrations and recordations in the completed catalogs, indexes, and other records of the Copyright Office should be addressed to the Reference and Bibliography Section, LM–450, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559–6306.

(b) *Limited purpose addresses.* The following addresses may be used only in the special, limited circumstances given for a particular Copyright Office service:

(1) Time sensitive requests. Freedom of Information (FOIA) requests; notices of filing of copyright infringement lawsuits; comments for rulemaking proceedings; requests for Copyright Office speakers; requests for approvals of computer generated application forms; requests for expedited service from either the Certifications and Documents Section or Reference and Bibliography Section to meet the needs of pending or prospective litigation, customs matters or contract or publishing deadlines should be addressed to: Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024–0400.

(2) Copyright Arbitration Royalty Panels (CARPs). CARP claims, filings, and general CARP correspondence should be mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

* * * * *

§ 201.5 [Amended]

3. Sections 201.5(a)(1) introductory text, (a)(1)(i)(A) through (D) and (a)(1)(ii) are amended by removing ''Title'' and adding ''title'' each place it appears.

§ 201.7 [Amended]

4. Section 201.7(c)(1) is amended by removing ''de minimis'' and adding ''*de minimis*''.

§ 201.10 [Amended]

5. Section 201.10 is amended as follows:

a. By removing ''Title'' and adding ''title'' each place it appears in paragraphs (b)(1)(v)(B), (d)(2), and (e)(1).

b. By removing ''Title'' and adding ''title''; by removing ''paragraph'' and adding ''paragraphs'' after ''regulatory provisions of'' in paragraph (d)(4).

c. By adding a comma '','' before ''the document, including any'' in paragraph (f)(3).

§ 201.15 [Removed and reserved]

6. Section 201.15 is removed and reserved.

§ 201.17 [Amended]

7. Section 201.17 is amended as follows:

a. By removing ''DSE'' and adding ''distant signal equivalent (DSE)'' in paragraph (b)(1).

b. By removing ''statements of account'' and adding ''Statements of Account'' before ''and royalty fees to be deposited'' in paragraph (b)(2).

§ 201.19 [Amended]

8. Section 201.19 is amended as follows:

a. By removing ''GAAP'' in the undesignated paragraph entitled ''Step 2'' under paragraph (e)(4)(ii) and adding ''Generally Accepted Accounting Practices''.

b. By removing ''Title'' and adding ''title'' in paragraph (f)(6)(ii)(A).

§ 201.20 [Amended]

9. Section 201.20(b)(1) is amended by removing ''Title'' and adding ''title''.

§ 201.22 [Amended]

10. Section 201.22(c)(1)(i) is amended by removing ''Title'' and adding ''title''.

§ 201.24 [Amended]

11. Section 201.24 is amended by removing ''Title'' before ''United States Code) governs the'' and adding ''title'' in paragraph (b).

§ 201.31 [Amended]

12. Section 201.31(a) is amended by adding ''(NAFTA)'' after ''North American Free Trade Agreement Implementation Act''.

§ 201.39 [Amended]

13. Section 201.39 is amended as follows:

a. By removing ''are'' and adding ''is'' after ''Appendix A to this section, and'' in paragraph (b).

b. By removing ''an unpublished work;'' and adding ''unpublished works;'' in paragraph (f)(3).

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

14. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 202.2 [Amended]

15. Sections 202.2(a)(1), (a)(3) and (b)(6)(iii) are amended by removing ''ad interim'' and adding ''ad interim'' each place it appears.

§ 202.3 [Amended]

16. Section 202.3 is amended as follows:

a. By removing ''are'' and adding ''is'' after ''of the collective work'' in paragraph (b)(5)(i)(F).

b. By removing the single quotation marks (' ') before and after ''Group Periodical Registration,'' in paragraph (b)(5)(ii).

c. By adding a comma (,) after ''Group Periodicals Registration'' in paragraph (b)(5)(iii).

d. By adding a comma (,) after ''Group'' in paragraph (b)(5)(v)(A).

e. By removing the comma (,) after ''submission'' in paragraph (b)(6)(i)(E).

f. By adding ''was'' after ''works'' in paragraph (b)(7)(i)(C).

g. By removing the right parenthesis '')'' after ''CD–ROM'' in paragraph (b)(8)(i).

§ 202.17 [Amended]

17. Section 202.17 is amended by removing ''cum testamento annexo'' and adding ''cum testamento annexo''; by removing ''de bonis non cum testamento annexo'' and adding ''de bonis non cum testamento annexo'' in paragraph (f)(3)(i)(C).

§ 202.19 [Amended]

18. Section 202.19(b)(1)(iii) is amended by removing the period (.) before ''In such cases:'' and adding a period (.) before the quotation mark after ''best edition''.

§ 202.22 [Amended]

19. Section 202.22 is amended as follows:

a. By adding ''17'' before ''of the United States Code'' in paragraph (b)(2).

b. By removing ''Title'' and adding ''title'' each place it appears in paragraph (c)(1).

PART 203—FREEDOM OF INFORMATION: POLICIES AND PROCEDURES

20. The authority citation for part 203 continues to read as follows:

Authority: 17 U.S.C. 702; 5 U.S.C. 552, as amended.

§ 203.1 [Amended]

21. Section 203.1 is amended by removing ''Title'' and adding ''title''.

§ 203.3 [Amended]

22. Section 203.3(a) is amended by adding '', litigation'' after ''in conjunction with copyright legislation''.

§ 203.4 [Amended]

23. Section 203.4(d) is amended by removing ''carrying'' and adding ''containing'' after ''request and the envelope''.

§ 203.6 [Amended]

24. Section 203.6 is amended as follows:

a. By removing ''t he'' and adding ''the'' before ''procedure established to obtain'' in paragraph (a).

b. By removing ''Title'' and adding ''title'' in paragraph (h).

PART 204—PRIVACY ACT: POLICIES AND PROCEDURES

25. The authority citation for part 204 continues to read as follows:

Authority: 17 U.S.C. 702; 5 U.S.C. 552(a).

§ 204.8 [Amended]

26. Section 204.8 is amended as follows:

a. By removing ''carrying'' and adding ''containing'' after ''Appeals, and the envelopes''; by removing quotation mark after ''Privacy Act Appeal'' and adding quotation mark after ''Privacy Act Appeal.'' in paragraph (a).

b. By adding a space between ''Counsel's'' and ''decision will set'' in paragraph (b).

PART 205—PRODUCTION OF LEGAL DOCUMENTS AND OFFICIAL TESTIMONY

27. The authority citation for part 205 continues to read as follows:

Authority: 17 U.S.C. 411, 17 U.S.C. 702.

§ 205.1 [Amended]

28. Section 205.1 is amended by removing ''Copyright'' and adding ''Copyrights'' in the section heading.

PART 211—MASK WORK PROTECTION

29. The authority citation for part 211 continues to read as follows:

Authority: 17 U.S.C. 702 and 908.

§ 211.2 [Amended]

30. Section 211.2 is amended by removing ''Title'' and adding ''title''.

§ 211.4 [Amended]

31. Section 211.4 is amended as follows:

a. By removing ''Title'' and adding ''title'' in paragraph (a).

b. By removing paragraph (f).

c. By redesignating paragraph (g) as paragraph (f).

Dated: June 22, 2001.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 01–16188 Filed 6–27–01; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

48 CFR Chapter XV

[FRL–6772–2]

Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In a previously published **Federal Register** (FR) document, EPA changed the official mailing address in the Code of Federal Regulations, where applicable, to reflect EPA's relocation of the majority of its Headquarter offices in the Washington Metropolitan area to new offices in downtown Washington, DC. However, with 25 CFR volumes, 6 major program areas, and continual amending of the Agency's regulations, it was inevitable that there would be problems. This document is continuing the update and correcting errors made in the previously published FR document. Although the official mailing address has changed, the physical location of the public information centers and dockets has not yet changed. This relocation effort will eventually consolidate the EPA Headquarter offices in the Washington Metropolitan area providing for increased savings, efficiency, and enhancement of customer services. The EPA mailing address change will be phased in for all EPA correspondence, publications, forms, and other documents.

DATES: This final rule is effective on June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Lapsley, Director of Regulatory Management Staff, Office of Policy, Economics, and Innovation (1806), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–5480; e-mail address: lapsley.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and has particular applicability to anyone who might need or want to communicate in writing with EPA, or submit information to the Agency. Since this action may apply to anyone, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR chapter I is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40tab_00.html and for 48 CFR chapter 15 at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_48/48cfrv6_00.html, these beta sites are currently under development.

II. Background

A. What Action is the Agency Taking?

EPA announced and amended its official mailing address in the **Federal Register** issue of August 2, 2000 (65 FR 47323) (FRL–6487–4). With 25 CFR volumes, 6 major program areas, and continual amending of the Agency's regulations, it was inevitable that there would be problems. The technical amendments and corrections in this document will address the problems identified in the the new electronic CFR (e-CFR) available on the Government Printing Office server by the OFR editors during their update.

As explained in the August FR document, EPA is relocating its Headquarter offices in the Washington Metropolitan area to new offices in downtown Washington, DC. This effort will consolidate the majority of the EPA Headquarter offices in the Washington Metropolitan area providing for increased savings, efficiency, and enhancement of customer services. To date, approximately two-thirds of the EPA Headquarter offices have been successfully relocated to the new location, with the remaining offices expected to move within the next 2 years. Although not all of the offices have been relocated, the Agency will begin to phase in the new address for all of its documents over the next 12 months.

Although EPA's official mailing address has changed, EPA will continue to receive mail with the old address until the EPA relocation is complete. The EPA mailing center which processes all of EPA's mail has not been relocated yet, so EPA will continue to physically receive and process all of its mail at its current location until this operation is relocated.

If you wish to inspect a rulemaking record or deliver documents (e.g., your comments on a rulemaking) directly to the public record centers, which are also referred to as the public docket or locations for the public version of the official record, you should pay particular attention to information about the specific location of the particular public record center, because these record centers have not been relocated. EPA intends to consolidate these centers in the new location, and will announce the relocation when it occurs. For information about the location of these centers go to http://www.epa.gov/epahome/dockets.htm.

In certain cases, the EPA mailing address provided in the regulations, or in instructions for submitting a form or other information to EPA, may be an address other than the official mailing address for EPA Headquarter offices. In amending the CFR to reflect the address change, this FR document specifically identifies those CFR sections where the EPA address provided should not be changed. In addition, if you are responding to a request for comments, or otherwise wish to deliver your submission directly to a public docket or a particular office, please be sure to verify the relevant location to ensure that you identify the proper delivery address.

EPA intends to review existing regulatory documents, particularly forms and instructions for submitting information to the Agency, to ensure that the EPA mailing address is properly identified. If necessary, EPA intends to amend these documents over the next 2 years.

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

EPA is issuing this document under its general rulemaking authority, Reorganization Plan No. 3 of 1970 (5 U.S.C. app.).

In addition, section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment. EPA has determined that these amendments are technical and non-substantive. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

III. Do Any of the Regulatory Assessment Requirements Apply to this Action?

No. This final rule implements technical amendments and corrections to 40 CFR chapter I and 48 CFR chapter 15 to reflect a change in the EPA Headquarter's official mailing address, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment and/or correction is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Nor does this rule contain any information collection requirements that require review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*).

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action will not result in environmental justice related issues and does not, therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute (see Unit IV.), this action is not subject to provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–94). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Similarly, this rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000).

This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

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, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this 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 is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not a significant regulatory action under Executive Order 12866.

IV. Will EPA Submit this Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act (CRA) (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. CRA section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA, if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 28, 2001. 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Chapter I and 48 CFR Chapter 15

Environmental protection.

Dated: June 22, 2001.

Christine Todd Whitman,

Administrator.

Therefore, under the authority of Reorganization Plan No. 3 of 1970 (5 U.S.C. app.), 40 CFR chapter I and 48 CFR chapter 15 are amended and/or corrected as follows:

40 CFR CHAPTER I—[AMENDED]

Technical Amendments

1. By removing the phrase ''401 M Street SW.'' and adding in its place ''1200 Pennsylvania Ave., NW.'', except in § § 79.56(d)(5)(ii); 79.61(c)(3)(i)(B); 80.2 (w), (y), and (z); 141.142(d); 435.11(f); 435.41 (h); and 62.12(b) the address is revised to read ''401 M St., SW.''.

2. By removing the phrase ''401 M St. SW.'' and adding in its place ''1200 Pennsylvania Ave., NW.''.

3. By removing the phrase ''Washington, D.C. 20460'' and adding in its place ''Washington, DC 20460''.

4. By removing the phrase ''Washington DC 20460'' and adding in its place ''Washington, DC 20460''.

5. By removing the phrase ''401 M Street S.W.'' and adding in its place ''401 M St., SW.''.

6. By removing the phrase ''401 M St. SW'' and adding in its place ''401 M St., SW.''.

7. By amending § 2.213(a) to remove the phrase ''Freedom of Information Officer (A-101)'' and add in its place ''Headquarters Freedom of Information Operations (1105)''.

8. By amending § § 10.2(c) and 14.7 to remove the phrase ''(LE-132G)'' and add in their place ''(2311)''.

9. By amending § 23.12(a) to remove the phrase ''(LE-130)'' and add in its place ''(2311)''.

10. By amending § 67.11 (b)(3) to remove the phrase ''401 M Street'' and add in its place ''1200 Pennsylvania Ave.''.

11. By amending § 143.4(b) to remove the phrase ''1200 Pennsylvania Ave., NW.'' in the paragraph at the end of the table preceding the footnotes and add in its place ''401 M St., SW.''.

12. By amending § 178.25(b)(1) to remove the phrase ''(A-110)'' and add ''(1900)'' in its place.

13. By amending § 238.30 (b) to remove the phrase ''1200 Pennsylvania Ave., NW.'' and add in its place ''401 M St., SW.''.

14. By amending § 260.11(a)(11) to remove the phrase ''OSW Methods Team, 401 M St., SW.'' and add in its place ''OSW Methods Team, 1200 Pennsylvania Ave., NW.''.

15. By amending part 261, under Appendix IX, table 1, third column, item (5) ''Data Submittals'' for ''Bethlehem Steel Corporation'' as follows:

a. By removing the phrase ''the Section Chief, Delisting Section''.

b. By removing the phrase ''HWID/OSW (5304W)(5304), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460'' and adding in its place ''Waste and Chemicals Management Division (Mail Code 3HW11), U.S. EPA Region III, 1650 Arch St., Philadelphia, PA 19103''.

16. By amending part 261, under Appendix IX, table 2, third column, item (3) ''Data submittals'' for ''Bethlehem Steel Corp.,'' ''Steelton, PA.,'' to remove the phrase ''the Section Chief, Variances Section, PSPD/OSW, (OS-343)'' and add in its place ''PSPD/OSW (5303W)''.

17. By amending part 430, Appendix A, sections 18.11 and 18.12 to remove the phrase ''401 M St. SW'' and add in its place ''401 M St., SW.''.

18. By amending § 761.205(a)(3) to remove the phrase ''401 M St. SW'' and add in its place ''1200 Pennsylvania Ave., NW.''.

Corrections

In FR Doc. 00–18165, published in the **Federal Register** of August 2, 2000 (65 FR 47323), make the following corrections:

1. On page 47325, correct amendatory instruction number 7 by removing the phrase ''62.12(b) and''.

2. On page 47325, in amendatory instruction number 8, make the following corrections:

a. Remove the phrase ''52.1320 (b)(3),'' and add that same phrase in numerical order to the exceptions list in amendatory instruction number 10.

b. Correct the phrase ''52.2220(b)(3)'' to read ''52.2220(b)(2)''.

c. Remove the phrase ''86.095-35(h)(2)'' and add in its place ''86.095-35(i)''.

d. Remove the phrase ''86.1808-01(f)'' and add in its place ''86.1807-01(f)''.

e. Remove the phrases ''141.23 (footnotes 3, 4, 7, and 11),''; ''141.40(n)(11),'' ; and ''141.143(d),'' .

3. On page 47325, correct amendatory instruction number 9 by removing the phrase ''52.03(d)(1)'' and adding in its place ''52.02(d)(1)''.

4. On page 47325, correct amendatory instruction number 10 by removing the phrase ''52.1620(b)(3),'' and adding it in numerical order to the list of exceptions in amendatory instruction number 8.

5. On page 47325, correct amendatory instruction number 27 to read:

27. In § 265.1080(f)(2)(viii)(H)(*2*), remove ''2129'' and add in its place ''1812.''

6. On page 47325, remove amendatory instructions number 26 and 28. Renumber amendatory instruction 27 as number 26 and amendatory instructions 29 through 32 as amendatory instructions 27 through 30.

48 CFR CHAPTER 15—[AMENDED]

Technical Amendments

1. By removing the phrase ''Washington, D.C. 20460'' and adding in its place ''Washington, DC 20460''.

2. By removing the phrase ''Washington DC 20460'' and adding in its place ''Washington, DC 20460''.

Correction

In FR Doc. 00–18165, published in the **Federal Register** of August 2, 2000 (65 FR 47323), make the following correction on page 47325, in the third column, at the bottom of the page, in amendatory instruction number 2 under heading ''48 CFR Chapter 15—AMENDED,'' add a period after the last set of quotation marks.

[FR Doc. 01–16269 Filed 6–27–01; 8:45 am]
BILLING CODE 6560–50–S

Proposed Rules

Federal Register
Vol. 66, No. 125
Thursday, June 28, 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–239–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–300 Series Airplanes Modified by Supplemental Type Certificate SA7019NM–D

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 all Boeing Model 767–300 series airplanes modified by supplemental type certificate SA7019NM–D. This proposal would require modification of the in-flight entertainment (IFE) system to install a switch to remove power from the IFE system and revision of flight crew and cabin crew procedures. This action is necessary to ensure that the flight crew and cabin crew are able to remove electrical power from the IFE system when necessary and are advised of appropriate procedures for such action. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 13, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–239–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–239–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 BFGoodrich Aerospace, 3100 112th Street SW., Everett, Washington 98204–3500. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; 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–239–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–239–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Federal Aviation Administration (FAA) recently completed a review of in-flight entertainment (IFE) systems certified by supplemental type certificate (STC) and installed on transport category airplanes. The review focused on the interface between the IFE system and airplane electrical system, with the objective of determining if any unsafe conditions exist with regard to the interface. STC's issued between 1992 and 2000 were considered for the review.

The type of IFE systems considered for review were those that contain video monitors (cathode ray tubes or liquid crystal displays; either hanging above the aisle or mounted on individual seat backs or seat trays), or complex circuitry (i.e., power supplies, electronic distribution boxes, extensive wire routing, relatively high power consumption, multiple layers of circuit protection, etc.). In addition, in-seat power supply systems that provide power to more than 20 percent of the total passenger seats were also considered for the review. The types of IFE systems not considered for review include systems that provide only audio signals to each passenger seat, ordinary in-flight telephone systems (e.g., one telephone handset per group of seats or bulkhead-mounted telephones), systems that only have a video monitor on the forward bulkhead(s) (or a projection system) to provide passengers with basic airplane and flight information, and in-seat power supply systems that

provide power to less than 20 percent of the total passenger seats.

Items considered during the review include the following:

- Can the electrical bus(es) supplying power to the IFE system be deenergized when necessary without removing power from systems that may be required for continued safe flight and landing?
- Can IFE system power be removed when required without pulling IFE system circuit breakers? (i.e., is there a switch (dedicated to the IFE system or a combination of loads) located in the flight deck or cabin that can be used to remove IFE power?)
- If the IFE system requires changes to flight crew procedures, has the airplane flight manual (AFM) been properly amended?
- If the IFE system requires changes to cabin crew procedures, have they been properly amended?
- Does the IFE system require periodic or special maintenance?

In all, approximately 180 IFE systems approved by STC were reviewed by the FAA. The review results indicate that potential unsafe conditions exist on some IFE systems installed on various transport category airplanes. These conditions can be summarized as:

- Electrical bus(es) supplying power to the IFE system cannot be deenergized when necessary without removing power from systems that may be required for continued safe flight and landing.
- Power cannot be removed from the IFE system when required without pulling IFE system circuit breakers (i.e., there is no switch dedicated to the IFE system or combination of systems for the purpose of removing power).
- Installation of the IFE system has affected crew (flight crew and/or cabin crew) procedures, but the procedures have not been properly revised.

FAA's Determination

As part of its review of IFE systems, the FAA has determined that an unsafe condition exists on Boeing Model 767–300 series airplanes modified by STC SA7019NM–D, dated July 14, 1995. The IFE system on these airplanes is connected to an electrical bus that cannot be deactivated without also removing power from airplane systems necessary for continued safe flight and landing. There is no means available to the flight or cabin crew to remove power from the IFE system without pulling circuit breakers for the system. Also, the AFM and cabin crew manual do not provide clear instructions on how to remove power from the IFE system when responding to an emergency. This condition, if not corrected, could result in inability to remove power from the IFE system during a non-normal or emergency situation, and consequent inability to control smoke or fumes in the airplane flight deck or cabin.

Explanation of Relevant Service Information

The FAA has reviewed and approved BFGoodrich Engineering Order 23–32–767–031, dated August 16, 2000, which describes procedures for modification of the IFE system. The modification involves installation of a master power control switch for the video system on the video control center in the cabin and installation of associated wiring.

The FAA has also reviewed and approved BFGoodrich Flight Attendant Manual Supplement D2000–160, dated August 16, 2000, which advises the cabin crew on the use of the master power switch for the video system.

The FAA has also reviewed and approved BFGoodrich AFM Supplement D2001–025, dated February 26, 2001, which revises the Emergency Procedures section of the AFM to advise the flight crew on procedures for removing power from the IFE system during an emergency situation related to electrical smoke or fire.

Accomplishment of the actions specified in the engineering order, and revision of the flight attendant manual and AFM by insertion of the manual supplements, is intended to adequately address the identified unsafe condition.

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, the proposed AD would require accomplishment of the actions specified in the engineering order described previously, revision of the flight attendant manual to ensure that the cabin crew is advised of proper procedures for use of the master power switch for the video system, and revision of the AFM to ensure that the flight crew is advised of appropriate procedures for removing power from the IFE system during an emergency situation related to electrical smoke or fire.

Calculation of Compliance Time

In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the amount of time necessary to accomplish the proposed actions, and the practical aspect of accomplishing the proposed actions within an interval of time that parallels normal scheduled maintenance for the affected operators. In consideration of these factors, the FAA has determined that 18 months after the effective date of this AD represents an appropriate interval of time allowable wherein an acceptable level of safety can be maintained.

Other Relevant Proposed Rulemaking

This proposed action is one of a number of proposed AD's on airplanes modified by STC's that have been determined to be subject to similar unsafe conditions. Other currently proposed AD's include the following airplanes and STC's:

Model/Series	STC No.	Docket No.
Boeing 757–200	SA1727GL	2000–NM–228–AD
McDonnell Douglas DC–9–51 and DC–9–83	SA8026NM	2000–NM–229–AD
McDonnell Douglas DC–10–30	ST00054SE	2000–NM–231–AD
Boeing 767–300 and 767–300ER	SA5765NM SA5978NM	2000–NM–232–AD
Boeing 767–300	ST00157SE	2000–NM–233–AD
Boeing 747–100 and –200	ST00196SE	2000–NM–234–AD
Boeing 767–200	SA5134NM	2000–NM–235–AD
Boeing 767–300	ST00118SE	2000–NM–236–AD
Boeing 737–300	ST00171SE	2000–NM–237–AD
Boeing 767–200	SA4998NM	2000–NM–238–AD
Boeing 747–100 and –200	SA8622SW	2000–NM–240–AD
McDonnell Douglas DC–10–30	SA8452SW	2000–NM–241–AD
Boeing 737–700	ST09100AC–D ST09105AC–D	ST09104AC–D 2000–NM–242–AD

Model/Series	STC No.	Docket No.
	ST09106AC–D	
Boeing 767–200	ST09022AC–D	2000–NM–243–AD
Boeing 747SP	ST09097AC–D	2000–NM–244–AD
Boeing 747–400	SA8843SW	2000–NM–245–AD
Airbus A340–211	ST0902AC–D	2000–NM–246–AD

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 40 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,740 per airplane. Based on these figures, the cost impact of the proposed modification would be $5,140 per airplane.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 1 work hour per airplane to accomplish the proposed manual revisions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed manual revisions would be $60 per airplane.

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–239–AD.

Applicability: Model 767–300 series airplanes modified by supplemental type certificate (STC) SA7019NM–D, dated July 14, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (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: Required as indicated, unless accomplished previously.

To ensure that the flight crew and cabin crew are able to remove electrical power from the in-flight entertainment (IFE) system when necessary and are advised of appropriate procedures for such action, accomplish the following:

Modification and Manual Revisions

(a) Within 18 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Install a master power control switch for the video system and associated wiring, in accordance with BFGoodrich Engineering Order 23–32–767–031, dated August 16, 2000.

(2) Following installation of the master power control switch in accordance with paragraph (a)(1) of this AD, prior to further flight, insert BFGoodrich Flight Attendant Manual Supplement D2000–160, dated August 16, 2000, into the Flight Attendant Manual, and insert BFGoodrich Airplane Flight Manual (AFM) Supplement D2001–025, dated February 26, 2001, into the Emergency Procedures section of the AFM.

Spares

(b) As of the effective date of this AD, no person shall install an IFE system in accordance with STC SA7019NM–D, dated July 14, 1995, on any airplane, unless it is modified, and the Flight Attendant Manual and AFM are revised, in accordance with this AD.

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, 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 2: 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

(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 airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 21, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–16204 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Honolulu 01–047]

RIN 2115–AA97

Safety Zone; Japanese Fisheries High School Training Vessel EHIME MARU Relocation and Crew Member Recovery, Pacific Ocean, South Shores of the Island of Oahu, HI

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish four temporary safety zones south of Oahu, Hawaii to protect vessels and mariners from the hazards associated with vessel relocation and crew member recovery operations of the Japanese Fisheries High School Training Vessel EHIME MARU, which sank after being struck by the submarine USS GREENEVILLE (SSN 772). Entry into these zones will be prohibited unless authorized by the Captain of the Port Honolulu, HI.

DATES: Comments and related material must reach the Coast Guard on or before July 30, 2001.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office Honolulu, 433 Ala Moana Boulevard, Honolulu, HI, 96813, who 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 Honolulu between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Mark Willis, U.S. Coast Guard Marine Safety Office Honolulu, Hawaii at (808) 522–8260.

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 [COTP Honolulu 01–047], 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 your comments 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. We are providing a 30-day comment period on this proposal so that we can seek public input on the proposed safety zones and still publish the final rule before the start of the vessel relocation and crew member recovery operation. We anticipate the rule will be effective less than 30 days after its publication in the **Federal Register**.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to U.S. Coast Guard Marine Safety Office Honolulu, HI, 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

On February 9, 2001, the Japanese Fisheries High School Training Vessel EHIME MARU was struck by the submarine USS GREENEVILLE (SSN 772) approximately 9 nautical miles south of Diamond Head on the island of Oahu, Hawaii. The EHIME MARU sank in approximately 2,000 feet of water. At the time of the sinking, 26 of the 35 crewmembers were successfully rescued. An extensive search failed to locate additional personnel and it is assumed that some, or all, of the nine missing crewmembers were trapped inside the vessel. The EHIME MARU is resting upright on the seafloor at position 21°–04.8′N, 157°–49.5′W. The U.S. Navy plans to recover crewmembers, personal effects, and certain unique characteristic components from the EHIME MARU. In its present location, the vessel is beyond diver capability to safely conduct recovery operations. Therefore, the current recovery plan calls for use of a specially equipped offshore construction vessel to lift the EHIME MARU from the bottom and transport the vessel to a shallow water work site. The EHIME MARU would then be placed back on the seafloor, in approximately 115 feet of water, where Navy divers would enter the hull and attempt to recover crewmembers, personal effects, and uniquely characteristic components found inside. To limit the impact on the marine environment, diesel fuel, lubricating oil, loose debris, and any other hazardous materials will be removed to the maximum extent practicable at the shallow water work site. The hull will then be lifted back off the ocean floor and moved to a deep water relocation site approximately 13 nautical miles south of Barbers Point on the island of Oahu, Hawaii. To support the vessel relocation and crew member recovery operation, the Coast Guard proposes to establish safety zones as follows:

1. A fixed safety zone, with a radius of 1 nautical mile, centered at 21°–04.8′N, 157°–49.5′W; the present location of the EHIME MARU.

2. A moving safety zone, with a radius of 1 nautical mile, will be in effect during the transit of the EHIME MARU and associated recovery vessels from the present location of the EHIME MARU to the shallow water work site, located within the Naval Defensive Sea Area at approximate position 21°–17.5′N, 157°–56.4′W.

3. A moving safety zone, with a radius of 1 nautical mile, will be in effect during transit of the EHIME MARU and associated recovery vessels from the shallow water work site to the deep water relocation site at approximate position 21°–05.0′N, 157°–07.0′W.

4. A fixed safety zone, with a radius of 1 nautical mile, centered at the coordinates of the deep water relocation site, will be in effect until the EHIME MARU is placed back on the ocean floor. The portion of the safety zone extending beyond the territorial boundary is advisory only.

The safety zones would be enforced sequentially, the exact dates will be dependent on the phase of the operation. The safety zones would become effective at the beginning of August, 2001, and would remain in effect until the operation, which will take about 3½ months, ends in mid-November. The purpose of these safety zones is to protect vessels and mariners from hazards associated with vessel relocation and crew member recovery operations of the Japanese Fisheries High School Training Vessel EHIME MARU. Since oil spills may result due to damaged and ruptured fuel tanks, the safety zone would also protect vessels and mariners from the hazards of any pollution response operations that may be necessary. Entry into these safety zones will be prohibited unless

authorized by the Captain of the Port Honolulu, HI. The safety zones will be enforced by representatives of the Captain of the Port Honolulu. The Captain of the Port may be assisted by other federal agencies.

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). The U.S. Coast Guard expects the economic impact of this action to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the short duration of the zone and the limited geographic area affected by it.

Small Entities

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

The U.S. Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. No small business impacts are anticipated due to the small size of the zones and the short duration of the safety zones in any one area. 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.

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

The U.S. Coast Guard has analyzed this rule under Executive Order 13132, and has determined this proposed 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) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Indian Tribal Governments

This proposed 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.

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 U.S. Coast Guard considered the environmental impact of this action and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

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

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

2. From August 1, 2001, to November 15, 2001, new § 165.T14–047 is temporarily added to read as follows:

§ 165.T14–047 Safety zone: Japanese fisheries high school training vessel EHIME MARU relocation and crew member recovery, Pacific Ocean, south shores of the Island of Oahu, Hawaii.

(a) *Location.* The following areas are safety zones. All coordinates reference 1983 North American Datum (NAD83).

(1) At the current location of the Japanese Fisheries High School Training Vessel EHIME MARU, all waters from the surface of the ocean to the bottom within a 1 nautical mile radius centered at 21°–04.8′N, 157°–49.5′W.

(2) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius of the recovery vessels while enroute between the current location at 21°–04.8′N, 157°–49.5′W, to the shallow water recovery site at 21°–17.5′N, 157°–56.4′W.

(3) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius of the recovery vessels while enroute between the shallow water work site at 21°–17.5′N, 157°–56.4′W, to the deep water relocation site at 21°–05.0′N, 157°–07.0′W.

(4) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius centered at 21°–05.0′N, 157°–07.0′W, except those waters extending beyond the territorial seas.

(b) *Designated representative.* A designated representative of the U.S. Coast Guard Captain of the Port is any U.S. Coast Guard commissioned, warrant, or petty officer that has been authorized by the U.S. Coast Guard Captain of the Port, Honolulu, to act on his behalf. The following officers have or will be designated by the Captain of the Port Honolulu: The senior U.S. Coast Guard boarding officer on each vessel enforcing the safety zone.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into these zones is prohibited unless authorized by the U.S. Coast Guard Captain of the Port or his designated representatives. The Captain of the Port Honolulu will grant general

permissions to enter the zones via Broadcast Notice to Mariners.

(d) *Effective dates.* This section is effective from the beginning of August 2001 [date to be inserted in final rule] until the operation ends in mid-November 2001 [date to be inserted in final rule]. The public will be notified of the exact dates for enforcement of the various zones by Broadcast Notice to Mariners.

Dated: June 19, 2001.

G.J. Kanazawa,

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

[FR Doc. 01–16205 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL208–1, IL209–1; FRL–7003–8]

Approval and Promulgation of Implementation Plans; Illinois NO_X Regulations

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: On April 9, 2001, and May 1, 2001, Illinois submitted adopted rules to reduce emissions of nitrogen oxides (NO_X) from cement kilns and from industrial boilers and turbines, respectively. Illinois adopted these rules to help meet the NO_X emission budget as required under USEPA's NO_X State Implementation Plan (SIP) Call as well as to help attain the 1-hour ozone standard in the Chicago area.

USEPA proposes to approve these two sets of rules. These rules are similar to and satisfy the requirements of USEPA's sample rules. Illinois' rules include language mandated by the Illinois legislature making the compliance deadline contingent on Federal enforceability of similar rules in other nearby states. However, the legislature has recently reversed its prior mandate and established a fixed compliance deadline of May 31, 2004.

On June 18, 2001, Illinois submitted a budget demonstration, reflecting the impact of the rules on cement kilns and industrial boilers and turbines in conjunction with previously submitted rules on electricity generating units. The submittal justifies two minor inventory revisions, adding one source and deleting another source from the list of regulated industrial sources. Illinois' submittal shows that its rules will achieve the revised budget of acceptable 2007 NO_X emission levels. USEPA concurs with the inventory revisions and proposes to approve Illinois' budget demonstration.

USEPA has previously proposed to approve Illinois' rules for electricity generating units, provided Illinois established a fixed compliance deadline. With today's action, USEPA has proposed to approve all of the regulations needed to achieve the budgeted 2007 NO_X emission levels and to meet USEPA's associated requirements. Therefore, USEPA proposes to conclude that Illinois has satisfied all requirements of USEPA's NO_X SIP Call.

DATES: Written comments on this proposed rule must be received on or before July 30, 2001.

ADDRESSES: Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the State's submittal are available for inspection at the following address: (We recommend that you telephone John Summerhays at 312–886–6067, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, *summerhays.john@epa.gov,* 312–886–6067.

SUPPLEMENTARY INFORMATION: In the following text, the terms ''we,'' ''us,'' or ''our'' refer to USEPA. This notice is organized according to the following table of contents:

I. Background

A. What Is USEPA's ''NO_X SIP Call''?

On October 27, 1998, the USEPA promulgated a regulation known as the NO_X SIP Call for numerous States, including the State of Illinois. The NO_X SIP Call requires the subject States to develop NO_X emission control regulations sufficient to provide for a prescribed NO_X emission budget in 2007.

Preceding the promulgation of USEPA's NO_X SIP Call was extensive discussions of transport of ozone in the Eastern United States. The Environmental Council of States (ECOS) recommended the formation of a national workgroup to assess the problem and to develop a consensus approach to addressing the transport problem. As a result of ECOS' recommendation and in response to a March 2, 1995 USEPA memorandum, the Ozone Transport Assessment Group (OTAG) was formed to conduct regional ozone transport analyses and to develop a recommended ozone transport control strategy. OTAG was a partnership among USEPA, the 37 eastern States and the District of Columbia, and industrial, academic, and environmental groups. OTAG was given the responsibility of conducting the two years of analyses envisioned in the March 2, 1995 USEPA memorandum.

OTAG conducted a number of regional ozone data analyses and

regional ozone modeling analyses using photochemical grid modeling. In July 1997, OTAG completed its work and made recommendations to the USEPA concerning the regional emissions reductions needed to reduce transported ozone as an obstacle to attainment in downwind areas. OTAG recommended a possible range of regional NO_X emission reductions to support the control of transported ozone. Based on OTAG's recommendations and other information, USEPA issued the NO_X SIP Call rule on October 27, 1998. 63 FR 57356.

In the NO_X SIP Call, USEPA determined that sources and emitting activities in 23 jurisdictions[1] emit NO_X in amounts that ''significantly contribute'' to ozone nonattainment or interfere with maintenance of the 1-hour ozone national ambient air quality standards (NAAQS) in one or more downwind areas in violation of Clean Air Act (CAA) section 110(a)(2)(D)(i)(I). USEPA identified NO_X emission reductions by source sector that could be achieved using cost-effective measures and set state-wide NO_X emission budgets for each affected jurisdiction for 2007 based on the possible cost-effective NO_X emission reductions.

The source sectors include nonroad mobile, highway mobile, area, electricity generating units (EGUs), and major non-EGU stationary point sources. EGUs include stationary boilers and turbines that generate at least some electricity, even if they also generate steam for industrial processes. Non-EGUs include other large stationary boilers and turbines, typically for the purpose of generating steam for industrial processes.

USEPA established recommended NO_X emissions caps for large EGUs (potentially generating more than 25 megawatts) and for large non-EGUs (minimum design heat input of 250 mmBTU per hour). USEPA determined that significant NO_X reductions using cost-effective measures could be obtained as follows: application of a 0.15 pounds NO_X/mmBtu heat input emission rate limit for large EGUs; a 60 percent reduction of NO_X emissions from large non-EGUs; a 30 percent reduction of NO_X emissions from large cement kilns; and a 90 percent reduction of NO_X emissions from large stationary internal combustion engines. The 2007 state-wide NO_X emission budgets established by jurisdiction were based, in part, by assuming these levels of NO_X emission controls coupled with NO_X emissions projected by source sector to 2007.

Although the state-wide NO_X emission budgets were based on the levels of reduction achievable through cost-effective emission control measures, the NO_X SIP Call allows each State to determine what measures it will choose to meet the state-wide NO_X emission budgets. It does not require the States to adopt the specific NO_X emission rates assumed by the USEPA in establishing the NO_X emission budgets. The NO_X SIP Call merely requires States to submit SIPs, which, when implemented, will require controls that meet the NO_X state-wide emission budget. The NO_X SIP Call encourages the States to adopt a NO_X cap and trade program for large EGUs and large non-EGUs as a cost-effective strategy and provides an interstate NO_X trading program that the USEPA will administer for the States. If States choose to participate in the national trading program, the States must submit SIPs that conform to the trading program requirements in the NO_X SIP Call.

B. What Requirements Must Illinois Meet?

The State of Illinois has the primary responsibility under the Clean Air Act for ensuring that Illinois meets the ozone air quality standards and is required to submit a SIP that specifies emission limitations, control measures, and other measures necessary for meeting the NO_X emissions budget. The SIP for ozone must meet the ozone transport SIP Call requirements, must be adopted pursuant to notice and comment rulemaking, and must be submitted to the USEPA for approval.

These NO_X emission reductions will address ozone transport in the area of the country primarily east of the Mississippi River. USEPA promulgated the NO_X SIP Call pursuant to the requirements of CAA section 110(a)(2)(D) and our authority under CAA section 110(k). Section 110(a)(2)(D) applies to all SIPs for each pollutant covered by a NAAQS and for all areas regardless of their attainment designation. It requires a SIP to contain adequate provisions that prohibit any source or type of source or other types of emissions within a State from emitting any air pollutants in amounts which will contribute significantly to nonattainment in, or interfere with maintenance of attainment of a standard by any other State with respect to any NAAQS.

Pursuant to its authority under section 110(k)(5), USEPA concluded that the SIPs for Illinois and other states are substantially inadequate to prohibit NO_X emissions that significantly contribute to ozone nonattainment in downwind states. Therefore, Illinois must submit SIP revisions that address this inadequacy.

USEPA has published a model rule for control of NO_X emissions from boilers and turbines. This model rule, codified at Title 40 of the Code of Federal Regulations Part 96 (40 CFR part 96), reflects USEPA's recommendations for the general design of the necessary NO_X emission control programs as well as detailed recommendations for specific program features. Similarly, at 63 FR 56393 (October 21, 1998), USEPA has published a proposed Federal implementation plan including rules regulating cement kilns, which serve as sample rules for this source type. USEPA recommends the cost-effective levels of control noted above. The budget that USEPA established for states reflects these control levels. USEPA further recommends that states take the necessary steps to allow their sources to participate in a multi-state NO_X emissions trading program that USEPA will run. While USEPA offers flexibility to states on various elements of program design, particularly in the distribution of projected emission reductions, USEPA can offer more streamlined approval of programs that more closely follow USEPA's model rule.

II. Summary of Illinois Submittals

A. Overview of Pertinent Submittals

1. What Are the Elements of Illinois' NO_X Emission Control Program?

Illinois has adopted a control strategy that closely matches the control strategy that USEPA assumed in determining NO_X emission budgets. Like USEPA's assumed strategy, Illinois is regulating emissions from large utility sources, from large cement kilns, and from large industrial boilers and turbines. Illinois requires cement kilns to meet an emission factor limitation or other equivalent limitation corresponding to 30 percent emission control. Illinois requires utility sources on average to meet a limitation of 0.15 pounds of NO_X emissions per mmBTU and requires industrial boilers on average to achieve 60 percent emissions control.

Illinois provides for the utility and industrial boiler sources to participate in the trading program that USEPA is running. Thus, these sources are not subject to specific emission limitations. Instead, USEPA would issue allowances to these sources in amounts equivalent

[1] Alabama, Connecticut, Delaware, District of Colmbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

to the budgeted emissions level, and USEPA and Illinois would require each source to emit no more tons than the number of allowances it holds. One option a source would have is to emit at or below the budgeted level and accommodate these emissions with the issued allowances. Another option is to emit more than the budgeted amount and accommodate these emissions by purchasing allowances from a second source that has excess allowances due to a corresponding degree of control below its budgeted level. Under either option, and under any of the variants of these options permissible in Illinois' rules, the net effect is designed to be achievement of the targeted emissions reductions by some combination of sources in the program.

2. What Submittals Has Illinois Made?

Illinois divided its NO_X emission control program into several components, each submitted separately. On July 18, 2000, Illinois submitted a draft version of subpart W of part 217 of the Illinois Administrative Code, regulating electricity generating units. Illinois submitted a fully adopted version of this rule on February 23, 2001. On April 9, 2001, Illinois submitted an adopted subpart T of part 217, regulating cement kilns. On May 1, 2001, Illinois submitted adopted subpart U, regulating industrial boilers and turbines.

USEPA proposed rulemaking on the submittal for electricity generating units on August 31, 2000, at 65 FR 52467. Today's notice proposes rulemaking on the submittals for cement kilns and industrial boilers.

These submittals constitute the full set of rules that Illinois has adopted to satisfy the requirements of USEPA's NO_X SIP Call. USEPA additionally requires each state to submit a demonstration that its regulations are adequate to attain the state NO_X emissions budget mandated by USEPA. Illinois submitted its budget demonstration on June 18, 2001. USEPA is proposing rulemaking on this budget demonstration as part of this notice. More generally, USEPA is proposing action on whether Illinois has fully satisfied USEPA's NO_X SIP Call.

3. What are USEPA's Plans for Rulemaking on Subpart X?

The submittal of May 1, 2001, also includes adopted rules of subpart X of part 217, entitled Voluntary NO_X Emissions Reduction Program. These rules authorize issuance of allowances for NO_X emission reductions at sources not required to reduce these emissions. Sources seeking such allowances must operate continuous emission monitors in accordance with USEPA's regulations at 40 CFR part 60. Subpart X is intended to provide flexibility for sources not part of the core group of sources to be subject to Illinois' NO_X emission control regulations to achieve reductions which can in effect substitute for reductions at facilities that must be subject to Illinois' regulations.

USEPA views subpart X as a supplement to Illinois' NO_X emissions regulations and not a direct set of emission reduction requirements needed to achieve the emissions control mandated by USEPA. Subpart X allows a redistribution of the targeted emission reductions but is intended to have no effect on the net emission reductions achieved.

USEPA is under court order to complete rulemaking on the ozone attainment demonstration for the Chicago area by October 15, 2001. The NO_X emission reductions required by subparts T, U, and W are an important part of the Chicago area attainment demonstration that Illinois has submitted. Therefore, USEPA must also complete rulemaking on these NO_X emission reduction regulations by October 15, 2001. Because these same three subparts are also designed to be sufficient to satisfy USEPA's NO_X emission budget requirements, USEPA intends to complete rulemaking on Illinois' budget demonstration in the same timeframe.

USEPA views subpart X as not being an element of Illinois' attainment demonstration, such that rulemaking on this subpart need not occur by October 15, 2001. USEPA believes the best approach for satisfying this deadline is to conduct separate rulemaking on subpart X. Also, because the features of subpart X are not included in USEPA's model rule, USEPA cannot conduct streamlined rulemaking on subpart X. Therefore, USEPA wishes to conduct streamlined rulemaking on the Illinois rules needed to satisfy USEPA's NO_X SIP Call without delaying the rulemaking to address subpart X.

USEPA provides flexibility for states to adopt different mixes of control strategies, to address different mixes of sources and to impose differing levels of control stringency. Most cases of applying this flexibility are to issue a different distribution of allowances (reflecting different distribution of control levels or growth rates) or to impose specific control requirements on a specific alternative source type. Conceptually, subpart X is a reasonable extension of this flexibility, to allow the reductions dictated in subparts T, U, and W to be replaced with reductions from other, as yet unidentified sources. Furthermore, subpart X is in many respects similar to the opt-in provisions that USEPA suggests in its model rule. USEPA anticipates proposing rulemaking on subpart X in the near future.

B. Cement Kiln Rules (Subpart T)

1. When Was the Cement Kiln NO_X Emission Control Rule Submitted to the USEPA?

Illinois EPA submitted to USEPA, additional portions of the State's NO_X emission control plan in a letter dated April 9, 2001. The letter contained rules adopted by the Illinois Pollution Control Board (IPCB) as requested amendments to the SIP. The submittal included: Subpart A: General Provisions, Subpart B: Definitions and Subpart T: Cement Kiln. The final State rule was published in the Illinois Register, Volume 25, Issue 13, pages 4582–4608, dated March 30, 2001. This version in the Illinois Register differs from that submitted with the SIP revision request only in that the numbering scheme in subpart T was changed from 217.6xx in the final package of rules sent to the IPCB (and in the submittal to USEPA) to 217.4xx in the official Illinois Register publication. This is not a significant issue but, highlighted only for clarity.

2. When Must Sources Reduce Emissions?

An important element of Illinois' rules is the date by which sources must comply with the applicable requirements. Section 217.402(b) of subpart T as submitted by Illinois states that sources are subject to the requirements of subpart T only after other nearby states become subject to comparable, federally enforceable NO_X emission limits. Similar language is in Illinois' rules for utility sources (subpart W), and USEPA proposed to approve those rules only if Illinois made the allowance holding/emission reduction requirements effective in May 2004 without respect to the status of requirements in nearby States. (Cf. 65 FR 52975, dated August 31, 2000.)

The Illinois legislature has passed legislation overriding the contingency clause in these rules and requiring compliance by May 31, 2004. This is the necessary compliance deadline pursuant to the resolution of a lawsuit regarding USEPA's NO_X SIP Call. USEPA expects the governor to sign this legislation soon. Once the governor signs this legislation, Illinois will have addressed the concern identified in USEPA's prior rulemaking and

established an appropriate compliance deadline for these rules.

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

Basic components of the rule are included in Table 1.

TABLE 1.—40 CFR PARTS AND SECTIONS INCORPORATED BY REFERENCE IN ILLINOIS' CEMENT KILN NO_X RULE

State subpart	State section	Comment
A	217.104(a)	Incorporation by reference (IBR) of 40 CFR 60, Appendix A, Method 7.
	217.104(b)	IBR of Alternative Control Techniques Document, NO_X Emissions from Cement Manufacturing.
	217.104(c)	IBR of AP–42, Compilation of Air Emission Factors, Volume 1, Section 11.6, Portland Cement Manufacturing.
	217.104(d)	IBR of 40 CFR 60.13
	217.104(e)	IBR of 40 CFR 60, Appendix A, Methods 7, 7A, 7C, 7D, and 7E.
T	217.400	Applicability, lists the types and sizes of kilns which are covered in the rule.
	217.402	Control Requirements. Lists dates, type of kiln, and NO_X emission limits. Includes language linking effective dates to NO_X SIPs in other states.
	217.404	Testing Requirements. References 40 CFR 60, Appendix A, Methods 7, 7A, 7C, 7D, or 7E.
	217.406	Monitoring Requirements.
	217.408	Reporting Requirements.
	217.410	Recordkeeping Requirements.

Subpart T applies to all Cement Kilns of the sizes noted in Table 2.

TABLE 2.—EQUIPMENT SUBJECT TO THE ILLINOIS CEMENT KILN RULE

Item	Process name	Process rate
1	Long dry kilns	12 tons/hour.
2	Long wet kilns	10 tons/hour.
3	Pre-heater kilns	16 tons/hour.
4	Pre-heater/pre-calciner kilns	22 tons/hour.

The rule applies to all noted sources in the State of Illinois. Equipment with process rates equal to or greater than the rates listed in Table 2, are subject to the requirements of the State's subpart T. There are three sources totaling four units potentially impacted by the cement kiln rule. Using information available to the State, the Illinois EPA applied regulatory control efficiency of 30 percent to the projected 2007 seasonal NO_X emissions to obtain the 2007 seasonal NO_X budget for the kilns. The required control on these kilns will reduce the 2007 base emissions to a control level 2,851 tons per control period as a result of emission controls beginning May 31, 2004.

Control requirements are listed in section 217.402 of the State's rule. Section 217.402 identifies a number of emission rates and technologies by which standards can be met. The rule specifies an emission rate limit based on type of kiln (see Table 2) or the use of emission factors based on a specified method. The rule also allows the use of an alternate emission standard for the kiln based on a demonstration that the alternative standard is justifiable. Illinois EPA established the following NO_X emission rate limits for the process kilns listed in Table 3.

TABLE 3.—CEMENT KILN EMISSION LIMITS FOR KILNS WHICH BEGAN OPERATION PRIOR TO JANUARY 1, 1996.

Item	Process	Emission limit #/ton clinker
1	Long dry kilns	5.1 # of NO_X/ ton of clinker.
2	Long wet kilns	6.0 # of NO_X/ ton of clinker.
3	Pre-heater kilns	3.8 # of NO_X/ ton of clinker.
4	Pre-heater/pre-calciner	2.8 # of NO_X/ ton of clinker.

The State allows other options to control emissions from kilns. As one option, after May 30, 2004, the kiln shall not operate during the control period unless the kiln is operated with a low-NO_X burner or a mid-kiln firing system for kilns which began operation before January 1, 1996. There is also an option under which the kilns would be required to achieve a 30 percent or greater reduction from its uncontrolled baseline.

USEPA evaluated whether two provisions posed ''director's discretion'' concerns, i.e. whether these provisions authorized only the state to make significant judgments without USEPA having independent review authority. First, section 217.402 (a)(5) authorizes the state to grant alternative emission standards. The state may issue such standards if the source demonstrates that 30 percent control would impose an ''unreasonable cost of control'' or installation of such control is a ''physical impossibility.'' These terms are undefined.

However, section 217.402(a)(5) also states that alternative standards ''shall be effective only when included as a federally enforceable condition in a permit approved by USEPA or approved as a SIP revision.'' Furthermore, the rule states that alternative standards or alternative compliance deadlines ''shall be granted by the Board to the extent consistent with federal law.'' These provisions clearly require independent USEPA review and approval. Therefore, USEPA does not find this provision to inappropriately remove USEPA from involvement in judging whether to grant alternative emission standards.

The second feature involving state judgment relates to methods for determining emissions. Section 217.402(a)(3)(B) requires sources to determine emissions using (i) appropriate emission factors, (ii) Method 7, or (iii) alternative methods approved by the State. The third option requires the alternative to be established in a federally enforceable permit. Because state issuance of federally enforceable permits require USEPA review and typically allow USEPA to veto any permit to which it objects, USEPA believes it has adequate authority to assure that appropriate emissions determining methods are used.

Sources must submit a compliance plan which must:

1. Identify the specific operating conditions to be monitored and the correlation between the operating conditions and NO_X emission rates;

2. Include the data and information that the owner or operator used to identify the correlation between NO_X emission rates and these operating conditions;

3. Identify how the owner or operator will monitor these operating conditions on an hourly or other basis, and identify the quality assurance procedures or practices that will be employed to ensure that the data generated by monitoring these operating conditions will be representative and accurate.

4. If operating a low-NO_X burner or mid-kiln firing system, the plan must include only monitoring parameters indicated in the manufacturer's specifications and recommendations for the low-NO_X burner or mid-kiln firing system as approved by the IEPA.

5. If the owner or operator elects to monitor NO_X emissions using a continuous emissions monitoring system, the owner or operator must submit a monitoring plan subject to the approval by the IEPA.

4. Will Affected Sources Be Allowed to Participate in a NO_X Emissions Trading Program?

This rule allows the owner or operator to obtain approval from the Illinois EPA and the USEPA to participate in the NO_X Trading Program. Participation will be effective upon issuance of a permit containing all necessary federally enforceable permit conditions addressing the kiln's participation in the Federal NO_X Trading Program following the requirements of 40 CFR part 96. A source which participates in the trading program is not subject to subpart T of the State's rule except for the requirement to submit an initial compliance report.

5. What Public Review Opportunities Were Provided?

The IEPA filed the subpart T Cement Kiln rule with the IPCB on August 21, 2000. The first notice of the rule was published in the Illinois Register on September 8, 2000. Hearings were held on October 3, 2000, in Chicago, and November 3, 2000 in Springfield, Illinois. A second notice was issued on December 21, 2000. Illinois issued a certification of no objections and second notice changes on February 21, 2001. On March 1, 2001, the IPCB issued its opinion and final order and adopted the rule. The final rule was published in the Illinois Register on March 30, 2001.

C. Industrial Boiler Rules (Subpart U)

Subpart U is quite similar to USEPA's model rule as given in 40 CFR part 96. The central feature is issuance of allowances to subject sources in an amount equivalent to significantly reduced emissions and a requirement to hold allowances equivalent to actual emissions levels. Subpart U also has several special provisions similar to USEPA's model rule, including provisions for a new source set-aside, for early reduction credits, for sources obtaining low emitter status, and for sources to opt into the program. The following summary of Illinois' industrial boiler rules describes the program's general features, discusses the sources subject to the rule, discusses the program's special features, and discusses the emission reductions anticipated from this program.

1. What Do the Industrial Boiler Rules Require?

Starting in 2004, industrial boilers and turbines must hold allowances equal to their emissions during the ozone season, defined here as May 1 to September 30. (As part of the resolution of a lawsuit challenging USEPA's rule, the applicable period for 2004, unlike the applicable period for subsequent years, excludes May 1 to May 30.) Each year, sources are issued a number of allowances as specified in appendix E to part 217. These sources receive allowances equivalent to 60 percent control. Sources have the option to avoid trading and reduce emissions to their allowance level. Alternatively, sources may alter their required emissions level by buying or selling allowances, presumably with other sources that reduced their own emissions to below or above their own allowance issuance levels, respectively.

As with the cement kiln and utility boiler programs, many elements of Illinois' industrial boiler program directly apply provisions promulgated by USEPA. Illinois applies the same applicability criteria as USEPA applied in assessing its emissions budget. Subject sources must satisfy the continuous emissions monitoring requirements set in 40 CFR part 96 and specified in 40 CFR part 75. Sources that emit in excess of their allowance holdings are subject to the enforcement provisions of 40 CFR 96.54, including a deduction of three allowances per ton of excess emissions and other potential enforcement actions. The process for tracking allowances and recording allowance transfers is the process given in 40 CFR part 96, subparts F and G, respectively. Sources must establish an allowance account representative pursuant to 40 CFR part 96, subpart B. Provisions on permits and emissions reporting closely match the corresponding provisions of 40 CFR part 96.

Subpart U applies the same level of stringency of control as is assumed for these sources in USEPA's emissions budget. The number of allowances issued to individual sources differs from the corresponding numbers in USEPA's emissions budget, principally due to redistribution of allowances of a source that has shut down, but the total number of allowances for source covered by subpart U is identical to the number of tons of NO_X emissions for these sources in USEPA's budget calculations.

2. What Sources Are Subject to These Rules?

Subpart U focuses on boilers and turbines with heat input capacity greater than 250 million British Thermal Units (mmBTU) that do not produce significant electricity. This rule affects a variety of companies, including refineries, food processors, and steelmakers. The rule includes an appendix that identifies sources that are subject to the regulation and specifies

the number of allowances issued to each of these sources.

Illinois requested two minor revisions to the emissions inventory of sources to be subject to the industrial boiler rules. The first revision applies to LTV Steel. Illinois explains that a boiler of this company was mistakenly identified as a small source. Illinois identifies this boiler as needing an allocation from USEPA; Illinois recommends an allocation of 60 tons per ozone season. The second revision applies to a boiler at the University of Illinois at Urbana-Champaign. Illinois submitted evidence that this boiler has a design capacity below the 250 mmBTU/hour cutoff given in Illinois' rule and assumed in USEPA's budget calculations. This revision would remove an allocation of 86 tons of allowances. The net effect of recognizing LTV's larger size and voiding the University of Illinois control requirement would be to increase the emissions budget for industrial boilers and turbines by 188 tons per ozone season. Considering existing controls at the LTV boiler, the addition of the LTV boiler and removal of the University of Illinois boiler from the list of sources subject to control would decrease the actual emission reductions expected from the rule by 124 tons per ozone season, to about 4100 tons per ozone season.

3. What Are the Special Provisions of These Rules?

Various special provisions supplement these general features. Appendix E allocates three percent of the industrial boiler allowances as a new source set-aside. Illinois issues these allowances to new sources to accommodate generally three years of well controlled operation, and redistributes any remaining ''new source set-aside'' allowances back to the existing sources listed in appendix E. Illinois rules allow special issuance of allowances to sources that achieve early reductions, i.e. reductions in 2001, 2002, or 2003, provided the source has reduced its emission rate by at least 30 percent. Illinois allows sources that burn natural gas or fuel oil to achieve ''low emitter status,'' in which the source must limit its fuel usage to remain below 25 tons of NO_X emissions per ozone season in exchange for being exempted from monitoring and allowance holding requirements. Illinois' rule differs slightly from USEPA's model rule (cf. 63 FR 57491, October 27, 1998) by giving sources the option to use continuous emissions monitoring rather than conservative default emission factors to show compliance with the 25 tons per ozone season qualifying level. Finally, Illinois allows smaller sources that are not required to participate in the program to opt into the program.

4. How Much Emission Reduction Do These Rules Achieve?

With the inventory adjustments recommended by Illinois, the sources identified in subpart U have a total allocation of 4856 tons per ozone season. Each individual allocation generally reflects 60 percent control, i.e. 40 percent of uncontrolled emissions. Thus, subpart U requires emission reductions to about 7300 tons below uncontrolled levels. Because many sources already have some emission controls, the reduction of actual emissions from these sources is projected to be about 4100 tons.

D. Budget Demonstration

On June 18, 2001, Illinois submitted its demonstration that its rules were adequate to achieve the 2007 level of NO_X emissions that USEPA budgeted for Illinois. As requested by USEPA, Illinois used USEPA's baseline inventory as the basis for this demonstration. Illinois provided the following table of NO_X emissions from the various types of sources that emit NO_X in significant quantities.

Sector	2007 Base ozone season total (tons)	2007 Budget ozone season total (tons)	Emission reduction (tons)	Category reduction (%)	Contribution to NO_X trading budget (tons)
Electrical Generating Units (EGUs)	119,311	32,372	86,939	73	30,701
Non-Electrical Generation Units (Non-EGUs)	71,011	59,765	11,246	16	4,856
Area	9,369	9,369	0	0	0
On-Road Mobile	112,518	112,518	0	0	0
Non-Road Mobile	56,724	56,724	0	0	0
Total	368,933	270,748	98,185	[1] 27	35,557

[1] Total Reduction.

This table relies on USEPA budget information as of March 2, 2000. On this date, at 65 FR 11222, USEPA published revised budgets for each of the states subject to the NO_X SIP Call and provided a detailed inventory of baseline and controlled emissions, available on the internet at *ftp.epa.gov/EmisInventory/NOxSIPCall_*Mar2_2000/.

Subsequent to March 2, 2000, the Court of Appeals for the District of Columbia Circuit remanded to USEPA the portion of the NO_X SIP Call requiring control of stationary internal combustion engines. Thus, pending further rulemaking, USEPA does not currently require control of these sources. In Illinois, control of these sources is projected to reduce NO_X emissions by 5954 tons per ozone season. Illinois has not adopted regulations for control of these sources and intends instead to adopt these regulations after USEPA completes rulemaking pursuant to the remand. Nevertheless, Illinois includes the prospective control of these sources, to simplify the comparison of projected Illinois emissions with USEPA's budget requirements. This approach is of course equivalent to making a comparison in which both the Illinois inventory and USEPA's budget exclude these controls.

Also subsequent to March 2, 2000, Illinois identified the issues described earlier in this notice concerning the size of the boilers of LTV Steel and the University of Illinois. Illinois' budget demonstration reflects the state's recommended budget revisions for these sources. These revisions increase the baseline emissions by 64 tons per ozone season and increase the budget level emissions by 188 tons per ozone season.

Because Illinois has adopted rules which reflect the same control strategy as USEPA assumed in formulating its budget, Illinois' projected, controlled emission inventory closely resembles USEPA's budget for Illinois. Illinois obtains emission reductions from electricity generating units and from non-electricity generating point sources. The inventory for non-electricity generating units reflects controls on

both cement kilns and industrial boilers and turbines. Because Illinois is pursuing the same mix of controls as was assumed in USEPA's budget, the projected 2007 emissions for these two categories are identical to the emissions for these categories in USEPA's budget except for the adjustments to the inventory for the two industrial boilers as described above. Illinois obtains no emission reductions from area sources, highway mobile sources, or nonroad mobile sources beyond the baseline inventory. (The baseline inventory reflects reductions from federal measures, notably highway vehicle controls.) USEPA's budget also assumes no emission reductions below the baseline inventory, so for all three categories Illinois' inventory and USEPA's budget equal the same USEPA baseline inventory total. Consequently, with adjustment for the alterations described above, Illinois' budget demonstration shows that total 2007 NO_X emissions are identical to the 2007 total NO_X emissions budget that USEPA has required Illinois to achieve.

III. USEPA Review

A. Cement Kiln Rules (Subpart T)

1. What Guidance Did USEPA Use To Evaluate the State's Rule?

The proposed Federal implementation plan, proposed at 63 FR 56393 (October 21, 1998), including regulations covering cement kilns, reflects USEPA's recommendations for the design of State regulations of such sources. Also relevant are USEPA's regulations on emissions monitoring in 40 CFR part 60, a significant portion of which are incorporated by reference into the State rules. The portions incorporated by reference are listed elsewhere in this proposal.

2. Can USEPA Approve Illinois' Cement Kiln Rules?

A key deficiency in subpart T is language which affords sources in Illinois a delay of one year or more in complying with the requirements of the rule. However, on May 31, 2001, the Illinois legislature passed a bill to establish a fixed compliance deadline of May 31, 2004. We anticipate that the Governor will sign this legislation soon, which would remove this deficiency. This legislation must be signed before we can approve subpart T.

The earlier section describing the rule discusses two issues relating to ''director's discretion'', i.e., questions as to whether the rules authorize only the state to make significant judgments without USEPA having independent review authority. As previously discussed, USEPA concludes that the alternative standard provisions at section 217.402(a)(5) sufficiently protect the viability of the NO_X budget plan. The intent is to ensure the source controls emissions to at least 30 percent below the baseline. The rule does not give the state sole discretion to broadly interpret terms such as ''unreasonable cost'' and ''physical impossibility''. The rule allows an ''adjusted standard or alternate emission standard * * * consistent with federal law. Such alternate shall be effective only when included as a federally enforceable condition in a permit approved by USEPA or approved as a SIP revision.'' USEPA believes this provision gives USEPA adequate authority to reject unacceptable requests for emission standards that require less than 30 percent emission reduction.

USEPA has conducted an extensive evaluation of controls feasible at cement kilns. Based on these efforts, USEPA does not expect any source to find 30 percent control to impose unreasonable costs or to be physically impossible. USEPA further expects to find that any request for lesser controls to be contrary to federal law, in particular the provisions of Clean Air Act section 110(a)(2)(D) requiring the state to prohibit emissions that contribute significantly to downwind nonattainment. Cement kilns which find control to be expensive or difficult can, in any case, opt into the trading program and purchase allowances as an alternative compliance strategy. Therefore, USEPA plans to use its discretion to reject requests for alternative emission standards.

The State rule addressed in this proposal applies to equipment of a size comparable to that used by USEPA in the development of the budget for the State of Illinois. For purposes of calculating the State's budget, USEPA assumed a 30 percent reduction in emissions from uncontrolled levels. The State's rule calls for a minimum reduction of NO_X of 30 percent as part of the approved federally enforceable permit conditions for a kiln participating in the NO_X trading program.

Illinois EPA identifies four large kilns as potentially impacted by the State's rule at three sources in the State. Each of these sources emitted more than 1 ton per day of NO_X during 1995. The total base year 2007 seasonal emissions of NO_X from these four kilns is calculated to be 4,073 tons during the control period. The required 30 percent control on these kilns will reduce the 2007 base to a controlled level of 2,851 tons during the control period.

We believe the State rule is approvable as an element of the State's NO_X plan.

B. Industrial Boiler Rules (Subpart U)

Illinois' rules for industrial boilers and turbines are similar to USEPA's model rule, both in their general design and in their inclusion of several special features. These features include provisions for a new source set-aside, for early reduction credits, for some sources to obtain low emitter status, and for sources not required to participate in the program to opt into the program.

This review of Illinois' industrial boiler rules focuses on the slight differences between Illinois' rules and USEPA's model rule. The review begins with a review of the general features of the program and continues with a review of each of the above special features.

1. Can USEPA Approve the General Approach?

Illinois' rules for industrial boilers and turbines are similar to USEPA's model rule for these sources. Therefore, USEPA finds acceptable the general design of Illinois' program for these sources, including the allocation of allowances, the requirement to hold allowances equivalent to emissions during a properly defined ozone season, and the supplemental features including the provisions for a new source set-aside, for early reduction credits, for sources obtaining low emitter status, and for sources to opt into the program. Thus, the principal question for this review is whether the details of Illinois' rules properly implement these general features. This review focuses on modest differences between particular elements of Illinois' rules and the corresponding elements of USEPA's model rule.

Illinois used the emissions inventory developed by USEPA, given at *ftp.epa.gov/EmisInventory/NOxSIPCall*_Mar2_2000, reflecting 60 percent emissions control, as the basis for determining allowances for each source. While the total number of allowances is identical to the number of tons per ozone season assumed for these sources in USEPA's budget, Illinois redistributes the allowances associated with a source that has shut down to the currently operating sources. USEPA guidance clearly accepts such redistributions of control burden. A subsequent section of this notice reviews whether the emission reductions mandated by these rules in conjunction with reductions mandated by other Illinois rules are adequate to achieve the NO_X emissions budget required by USEPA.

USEPA's model rule has provision for periodic reassessment of the number of allowances to be issued to each source. In USEPA's model rule, the state makes an annual determination of heat input, which the state uses to determine the source's allocation of allowances for four years thereafter.

In contrast, Illinois does not change its distribution of allowances to industrial boiler sources from year to year. In fact, aside from adjustments from overall budget changes that may in time be imposed by USEPA, and aside from source-specific changes such as opt-ins and low emitter status changes, Illinois' allocations of allowances to industrial boilers and turbines are permanent. Illinois has the flexibility to distribute allowances in a fixed manner, and this approach clearly gives sources the advance notice of allotments that USEPA requires.

USEPA objects to language in the rule making the compliance deadline contingent on action in other nearby states. However, legislation passed by the state legislature would remedy this problem, establishing a fixed, noncontingent compliance deadline of May 31, 2004. If the governor signs this legislation, the state will have an approvable compliance deadline.

The remaining general features of Illinois' program for industrial boilers and turbines either apply the provisions that USEPA has promulgated (such as for monitoring emissions, imposing penalties for noncompliance, and tracking and transferring allowances) or establish provisions closely matching USEPA's recommendations (such as for applicability and requirements for permitting and emissions reporting). These elements of Illinois' program are clearly acceptable.

2. Can USEPA Approve the New Source Set-aside Features?

USEPA's model rule reserves allowances to be granted to new sources. The model rule reserves five percent of the budget for this purpose for the first three years of the program and two percent thereafter. The model rule grants allowances to new industrial boilers and turbines in an amount equal to the maximum design heat input times 0.17 pounds of allowances per mmBTU. Illinois' industrial boiler rule also reserves allowances for new sources, but Illinois reserves three percent of the large industrial boiler source budget in all years and issues a smaller number of allowances to new sources. Illinois' rules determine the number of allowances available to a new source based on a heat input rate that reflects actual usage once actual usage data become available times an emission factor equal to the lesser of 0.15 pounds NO_X per mmBTU or the new source's permit limit. Illinois also requires the new source to purchase these allowances, the funds of which are returned to existing sources. USEPA expressly states that states have flexibility on these issues, and these aspects of Illinois' rules are well within the range of acceptable options.

3. Can USEPA Approve the Early Reduction Credit Features?

USEPA's model rule provides for early reduction credits. The model rule defines a process for requesting early reduction credits. In the model rule, sources that reduce their emission rate (pounds per mmBTU) by at least 20 percent and to below 0.25 pounds of NO_X emissions per mmBTU in 2001 or 2002 may request early reduction credits. USEPA's model rule issues allowances to the extent the source reduces emissions below 0.25 pounds per mmBTU, up to a specified maximum total issuance. Illinois' rule applies the same basic process as the model rule. However, Illinois issues allowances to any timely reduction that reduces the emission rate by at least 30 percent, irrespective of whether the resulting emission rate is above or below 0.25 pounds per mmBTU. (Although section 217.470(c) is somewhat confusing, USEPA interprets the language according to Illinois' intent, that credits may be requested only if the emission rate is at least 30 percent below the prior actual emission rate.) Since Illinois requires suitable monitoring before and after the reduction to assure that credits reflect valid reductions, USEPA accepts issuing credits for reductions above the 0.25 pounds per mmBTU level.

Two issues relating to early reduction credits arise from the one year delay in program startup mandated by the District of Columbia Circuit Court in its ruling on USEPA's NO_X SIP Call regulations. Since emission controls are no longer required in 2003, the first issue is whether sources that reduce emission rates in 2003 may receive early reduction credits. Illinois' rules provide that sources may request early reduction credits for adequate reductions ''in the 2001 or 2002 control period, or if approved by USEPA the 2003 control period.'' The second issue is when these credits may be used. USEPA's model rule provides that early reduction credits may only be used in 2003 and 2004. Illinois' rules provide that early reduction credits are ''for use in [the] 2004 control period, or later control periods authorized by USEPA.''

Because reductions are not required in 2003, USEPA considers reductions in 2003 to be early reductions. That is, USEPA approves issuing early reduction credits for qualifying reductions in 2003. USEPA intended for these early reduction credits to be used in the first two control years of the program. Therefore, USEPA authorizes use of these credits in 2005 as well as 2004. All early reduction credits not used by 2005 must be retired at the end of 2005 and may no longer be used.

4. Can USEPA Approve the Low Emitter Exemption Features?

Section 217.472 of Illinois' rules provides an exemption very similar to an exemption in USEPA's model rule for sources that only burn natural gas and/or fuel oil and emit under 25 tons per ozone season. Such sources do not receive allowances and need not hold allowances for these emissions but must comply with permit limitations sufficiently restricting fuel usage to comply with this emission level.

The only significant difference in Illinois' rule from USEPA's model rule is that sources may rely on continuous emissions monitoring (rather than fuel usage multiplied by default emission factors) to assess compliance with the 25 ton limit. USEPA discussed the interpretation of section 217.472 with the state. Illinois clarified this section in its letter of June 18, 2001. First, Illinois stated that section 217.472(a)(4) in effect defines ''potential NO_X mass emissions'' as the emissions determined either by emissions monitoring or by multiplying hours of operation times maximum potential hourly emissions. Second, Illinois clarified that, for sources relying on mass emissions monitoring, the restriction on operating hours should be interpreted as allowing only the number of hours of operation associated with the permissible number of tons of emissions (usually 25 tons per ozone season). Operation for any additional hours, during which the source would be emitting tons in excess of its permissible level (e.g. above 25 tons), would constitute a violation of the operating hours restriction and would cause the source to lose the low-emitter exemption (cf. section 217.472(c)). Third, as indicated in section 217.472(d) and reaffirmed by Illinois, whenever a source obtains low emitter status, Illinois will reduce the budget accordingly, so that sufficient allowances are set aside to account for the potential emissions of the low emitting source.

Similar provisions are in subpart W of part 217, applying to EGU's. The same interpretations of ''potential NO_X mass

emissions'' and operating hours restrictions apply to subpart W, for similar reasons. Illinois also reaffirmed that its rules provide a similar budget adjustment for low emitting sources under subpart W as under subpart U. USEPA concurs with these interpretations and finds these features of Illinois' rules approvable.

USEPA finds one paragraph of Illinois' rule pertaining to the low emitting source exemption to be confusing. Illinois has clarified that section 217.472(a)(5) was intended to use the language of USEPA's model at 40 CFR 96.4(b)(1)(v) but inadvertently omitted several words. USEPA therefore interprets section 217.472(a)(5) to require that the permit for the exempted source must ''require that *the owner or operator of the unit shall retain* for 5 years at the source that includes the unit, [records demonstrating compliance].'' (Underlined words added.)

5. Can USEPA Approve the Opt-in Features?

Finally, the Illinois rules include provisions similar to provisions in the USEPA model rule for sources not required to participate in the program to opt into the program. As with the model rule, Illinois requires these sources to monitor emissions using continuous emissions monitors meeting the same criteria as mandatory program participants. Illinois' criteria and process for opting in, the requirements and process for withdrawing after opting in, and the method of calculating the number of allowances to be allocated to opt-in sources, are all essentially identical to the corresponding provisions in USEPA's model rule. USEPA finds this aspect of Illinois' program acceptable.

6. In Summary, Can USEPA Approve Illinois' Industrial Boiler Rules?

Illinois' rules for industrial boiler NO_X emissions closely resemble USEPA's model rule. USEPA believes that the modest differences between Illinois' rules and the model rule are well within the range of flexibility that USEPA has offered to states. The recent legislation overriding the rules' contingent compliance date and establishing a compliance requirement starting May 31, 2004, will provide a timely deadline for compliance. Once this legislation is signed by the Governor, USEPA believes that Illinois' rules for industrial boilers and turbines will satisfy USEPA's requirements for program design and provide a creditable contribution toward achieving the NO_X emissions budget that USEPA requires Illinois to achieve and a creditable NO_X emission reduction for attainment planning purposes.

C. Budget Demonstration

1. Does USEPA Accept Illinois' Recommended Budget Revisions?

Illinois submitted evidence that the LTV Steel boiler is in fact a large boiler that should have been inventoried as having much greater emissions and should have been assumed to be subject to control. Illinois also submitted evidence that the maximum design heat input for the University of Illinois boiler is below 250 mmBTU/hour, so that this source should have been assumed to remain uncontrolled. These revisions would have minimal impact on the overall impact of the program. Also, these revisions are similar to revisions recommended by other states during early 2000 and incorporated into USEPA's budget in its March 2, 2000, rulemaking. While USEPA would have preferred to address these revisions then, USEPA can nevertheless address Illinois' recommendations now. USEPA concludes that Illinois has adequately justified these modest revisions to the inventory of data on these sources.

The special interaction between states and USEPA in implementing the NO_X emission trading program requires special procedures for addressing the revisions requested by Illinois. USEPA has established a budget of total 2007 NO_X emissions to be achieved by Illinois. Illinois cannot unilaterally change this budget; Illinois must instead request that USEPA change this budget.

Illinois has made its recommended allotment revisions contingent on USEPA concurrence with the requested budget revisions. Subpart U provides allotments without these revisions. Section 217.460(e) within subpart U specifies that Illinois will adjust the allocations for single units if USEPA makes unit-specific adjustments to the budget. USEPA hereby proposes to adjust the budget to reflect the revisions requested by Illinois. If finalized, this will have the result pursuant to section 217.460(e) that LTV Steel will receive an allocation of 60 allowances and the University of Illinois will receive no allowances and may be exempt from the requirements of subpart U.

2. Do Illinois' Rules Satisfy USEPA's Budget?

Illinois has adopted regulations governing NO_X emissions from EGUs, from cement kilns, and from large industrial boilers and turbines. On August 31, 2000, at 65 FR 52967, USEPA proposed to approve Illinois' EGU rules provided Illinois removed language making the compliance date contingent on similar rules taking effect in nearby states. The Illinois legislature has passed a bill to override that contingency and establish a fixed compliance deadline of May 31, 2004. Today's rulemaking proposes to approve the regulations for cement kilns and for large industrial boilers and turbines, provided the legislation is signed. Thus, USEPA believes that these regulations will be fully creditable for satisfying USEPA's NO_X emission budget requirements and attainment planning requirements once the Governor signs the legislation setting a fixed compliance date.

Illinois adopted rules reflecting the same control strategy as USEPA assumed in formulating its budget. Therefore, Illinois' budget demonstration is straightforward. Illinois used USEPA's baseline inventory as a basis for this demonstration, using the same five categories of sources as USEPA. For four of the five categories, namely electricity generating units, stationary area sources, highway vehicle sources, and nonroad vehicles, the inventory in Illinois' budget demonstration is identical to USEPA's budget inventory for both the base case and the controlled emissions case.

Illinois' subinventory for non-EGU point sources differs slightly from USEPA's subinventory for these sources. The differences are attributable to adjustments that Illinois recommends for LTV Steel and for the University of Illinois at Urbana-Champaign. As discussed above, USEPA proposes to make these revisions to the baseline and budget inventories.

USEPA concludes that Illinois has demonstrated that its NO_X regulations are adequate to achieve the adjusted 2007 NO_X emissions budget required by USEPA. Therefore, USEPA proposes to conclude further that Illinois has satisfied the requirements of USEPA's NO_X SIP Call.

IV. Proposed Action

USEPA proposes to approve Illinois' cement kiln rule and its industrial boiler rule (subparts T and U of part 217, respectively) as elements of the State's plan to meet the requirements of the NO_X SIP Call and the requirements of the 1-hour ozone demonstration for the Chicago area, provided the governor signs legislation setting a fixed compliance deadline. USEPA proposes to adjust the budget to reflect the revisions requested by Illinois, adding 188 tons to the nonEGU point source portion of the budget due to

reassessments of the size of boilers at LTV and the University of Illinois. USEPA proposes to approve Illinois' budget demonstration, demonstrating that Illinois' cement kiln and industrial boiler rules, in conjunction with the state's rules for electricity generating units, are adequate to achieve the NO_X emissions level that USEPA has budgeted for the state. Therefore, USEPA proposes to conclude more generally that Illinois has satisfied the requirements of USEPA's NO_X SIP Call, again provided the governor signs legislation setting a fixed compliance deadline.

USEPA is not proposing action today on subpart X, entitled ''Voluntary NO_X Emissions Reduction Program.'' USEPA is continuing to review this portion of Illinois' submittal and plans to propose rulemaking on these rules in the near future.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, 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 proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 20, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16292 Filed 6–27–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN138–1; FRL–7003–7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Indiana Department of Environmental Management (IDEM) on June 8, 2000. The revised SIP pertains to the Indiana motor vehicle inspection and maintenance (I/M) program. The purpose of this action is to approve certain amendments to the Indiana program, which EPA originally approved on March 19, 1996 (61 FR 11142).

DATES: Written comments must be received on or before July 30, 2001.

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

Copies of this SIP revision request are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco J. Acevedo at (312) 886–6061 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6061, E-Mail: acevedo.francisco@epa.gov.

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

Table of Contents

I. Background

A. What Is a State Implementation Plan (SIP)?

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

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

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

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

Once a state has adopted a rule, regulation, or emissions control strategy it submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed federal action on the state submission. If we receive adverse comments we address them prior to any final federal action (we generally address them in a final rulemaking action).

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

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

Enforcement of a state rule before and after it is incorporated into a federally approved SIP is primarily a state responsibility. After the rule is federally approved, however, the CAA authorizes the EPA to take enforcement actions against violators. The CAA also offers citizens legal recourse to address violations, as provided in section 304 of the Act.

D. What Is the Purpose of the Indiana I/M Rule?

Indiana's I/M requirements contained in 326 IAC 13–1.1 provide for emission standards and testing criteria for motor vehicles in Lake, Porter, Clark, and Floyd Counties. These counties are designated as ''nonattainment'' for ozone. Owners and operators of motor vehicles subject to Indiana's I/M program are required to maintain their motor vehicles and related air pollution related equipment in good working order and to have their vehicles' emissions checked every two years. The emissions testing program is a requirement of the Clean Air Act, and has been in place in these Indiana counties since 1984. On March 19, 1996 (61 FR 11142), EPA approved an upgrade to the Indiana I/M program as required by the Act. On June 8, 2000, Indiana submitted amendments to the I/M rule as a revision to the SIP for the purpose of updating program requirements gained from experience gained in the implementation of the Indiana program.

E. What Public Review Opportunities Did Indiana Provide for this Rule?

Indiana held a public hearing on the I/M rule on November 4, 1998, in Indianapolis, Indiana. The Indiana Air Pollution Control Board adopted final rules on December 2, 1998. The rule revisions became effective January 22, 1999, and were formally submitted to EPA on June 8, 2000, as a revision to the Indiana SIP for ozone.

II. Evaluation of the Rule

A. What Are the Changes to the State's I/M Rule?

1. Exemption of the Current Calendar Year Model Vehicle Plus the Three (3) Previous Model Year Vehicles From Emission Testing

The first change, at 326 IAC 13–1.1–2 (Applicability), specifically exempts the current calendar year's model plus the three (3) previous model year vehicles from emissions testing requirements, instead of only the most recent model year, as required in the original rule approved by EPA on March 19, 1996.

Test records for the Indiana program indicate that motor vehicles four (4) years old or newer have a failure rate of five tenths (0.5) percent compared to an average failure rate of thirteen and nine-tenths (13.9) percent for remaining vehicles tested. Indiana has determined that making this change will make the testing more efficient because newer cars, which have an extremely low failure rate, will not be unnecessarily tested. Further, cars which are required to be tested will have a reduced waiting time and increased accessability to test sites. This exemption of model years from emission testing is permissible, as long as the state can demonstrate that the program meets the performance standard for I/M programs as contained in 40 CFR 51.351 and 51.352. We have evaluated this change to the program using EPA's mobile source emission factor model (Mobile5b) and have determined that the program still meets the performance standard required for the Indiana program.

2. A Shortened Vehicle Emission Test

The second change provides for the use of a shortened vehicle emission test for gasoline powered, light and medium duty motor vehicles of model year 1981 through the current calendar year model. The original rule EPA approved on March 19, 1996 (61 FR 11142) specified the use of the 240-second transient vehicle emission test known as the ''IM240 test.'' The new shorter test uses the first 93-second test cycle of the IM240 test and is known as the ''IM93 test.'' Indiana includes the authority for both test types in 326 IAC 13–1.1–7. Both tests types are consistent with the requirements of the federal I/M requirements at 40 CFR 51.357.

IDEM has recently conducted a formal correlation study to compare the IM240 and the IM93 vehicle emissions tests in order to demonstrate that the shortened duration test is as effective in identifying vehicles with excessive emissions and quantifying the associated emission reductions. This will be determined once the state completes the correlation study and formally submits the results to EPA.

3. Testing of Vehicles Equipped With Second Generation On-board Diagnostics Systems (OBDII)

The third change adds provisions for the testing of vehicles equipped with second generation on-board diagnostics systems (OBDII) at 326 IAC 13–1.1–7 (Testing Parameter). OBDII computers monitor and actively perform diagnostics tests, looking at engine parameters such as air to fuel ratio and engine temperature. In vehicles equipped with OBDII systems, a malfunction indicator light illuminates if a system or component either fails or

deteriorates to the point where vehicle emissions could rise above one and one-half time the federal emission standards. OBDII systems are to be inspected as part of both IM240 and IM93 emission tests. Also at 326 IAC 13–1.1–8 (Testing Procedures and Standards), Indiana added OBDII equipment as one of several pieces of equipment that must be inspected and in working order before an emissions inspection will be performed. Furthermore, Indiana added a new section to provide for the testing of OBDII systems per EPA requirements. The new section at 326 IAC 13–1.1–17.1 (On-board diagnostics check), incorporates by reference federal requirements at 40 CFR part 51, subpart S, ''Requirements for Preparation, Adoption, and Submittal of Implementation Plans'' and 40 CFR part 85, subpart W, Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines. The key elements of the Indiana OBDII system check requirements are a check of the self diagnostic system to determine that it is functioning properly and has not been tampered with, a specification of the test sequence for the inspection of on-board diagnostic systems, and a specification of the test result provided with the on-board diagnostic test.

4. Elimination of the Off-cycle Test Currently Required When There Is a Change in Possession of Motor Vehicle Titles

The fourth change eliminates the off-cycle emission test originally required when there was a change in possession of motor vehicle titles. Indiana's program currently provides for vehicle emissions testing every two years. By requiring that motorists present a certificate of compliance for emission testing only during the year that testing is required based on their vehicle's model year in order to obtain registration, motorists can avoid having to unnecessarily test their vehicle multiple times during a single test cycle. This section meets the federal I/M requirements for test frequency and convenience found in 40 CFR 51.355.

5. Certified Inspection and Maintenance Emissions Repair Technician

The fifth change at 326 IAC 13–1.1–1 (Definitions) and 326 IAC 13–1.1–10 (Waivers and Compliance through Diagnostic Inspection) clarifies what is required of a repair shop and technician to become I/M certified, and makes clear that IDEM can rescind certification of a repair technician if he or she does not maintain the training or equipment requirements. The existing rule requires that repairs be performed by a certified repair technician in order to be considered in a waiver request. This section meets the requirements for inspector training and licences or certification found in 40 CFR 51.367

6. Vehicle Retest Limit

The sixth change in 326 IAC 13–1.1–10 (Waivers and Compliance through Diagnostic Inspection) sets a limit of four additional times that a vehicle may be tested after initial failure. A vehicle cannot be tested a fifth time until the type of repairs or modifications necessary has been evaluated by IDEM and the I/M contractor. This is intended to address those instances where motorists bring a failed vehicle in for multiple retests, even if minimal repairs have been made. This section meets the Federal I/M requirements for vehicle retesting found in 40 CFR 51.357.

7. Changes in the ''Definitions'' Section

Indiana has made some additional changes in 326 IAC 13–1.1–1 (Definitions), including amendments to the definitions of ''light duty motor vehicle;'' ''medium duty motor vehicle;'' and ''heavy duty motor vehicle.'' These changes do not affect the vehicle coverage requirements found in 40 CFR 51.356 which requires that light duty vehicles and light duty trucks rated up to 8,500 pounds gross vehicle weight rating be included in the program. In addition to the changes mentioned above, Indiana has added several definitions to address changes made in the other sections of the rule.

The rest of the changes to the rule are administrative in nature and are intended to enhance the clarity of the I/M rule, or improve the operation of the I/M program.

B. Is This Rule Approvable?

Our review of the material submitted indicates that the changes made to the Indiana I/M program addresses the Federal I/M program requirements. These rule revisions are, therefore, approvable.

III. Proposed Action

What Action Is EPA Proposing Today?

The EPA is proposing to approve Indiana's I/M SIP revision submitted by Indiana on June 8, 2000. The SIP revision amends certain program elements of Indiana's motor vehicle inspection and maintenance requirements.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, 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 proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the

necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Volatile organic compounds, Ozone.

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

Dated: June 19, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16291 Filed 6–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–7001–1]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule—consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), South Coast Air Quality Management District (South Coast AQMD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments on the proposed update must be received on or before July 30, 2001.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air–4), Attn: Docket No. A–93–16 Section XXIII, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

Docket: Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–16 Section XXIII. This docket is available for public inspection and copying Monday–Friday during regular business hours at the following locations:

EPA Air Docket (Air–4), Attn: Docket No. A–93–16 Section XXIII, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE–131), Attn: Air Docket No. A–93–16 Section XXIII, Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air Division (Air–4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1197.

I. Background Information

A. Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of rules by three local air pollution control agencies. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

A. What Criteria Were Used To Evaluate Rules Submitted To Update 40 CFR Part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

(e). In addition, EPA has excluded administrative or procedural rules,[2] and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

B. What Rule Revisions Were Submitted To Update 40 CFR Part 55?

1. After review of rules submitted by Santa Barbara County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to making the following rule revisions applicable to OCS sources for which the Santa Barbara County APCD is designated as the COA:

Rule number	Rule name	Adoption date
325	Crude Oil Production and Separation	01/18/01
326	Storage of Reactive Organic Compound Liquids	01/18/01
346	Loading of Organic Liquid Cargo Vessels	01/18/01

2. After review of the rules submitted by South Coast AQMD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rule revisions applicable to OCS sources for which the South Coast AQMD is designated as the COA:

Rule number	Rule names	Adoption Date
109	Recordkeeping for Volatile Organic Compound Emissions	08/18/00
219	Equipment Not Requiring a Written Permit Pursuant to Reg II	11/17/00
431.2	Sulfur Contents of Liquid Fuels	09/15/00
442	Usage of Solvents	12/15/00
1107	Coating of Metal Parts and Products	11/17/00
1146	Emissions of Oxides of Nitrogen from Industrial, Institution, and Commercial Boilers, Steam Generators, and Process Heaters.	11/17/00
1168	Adhesive and Sealant Applications	09/15/00
1302	Definitions	10/20/00
1303	Requirements	02/16/01
1306	Emission Calculations	10/20/00
2000	General	10/20/00
2011	Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (Sox) Emissions.	03/16/01
2012	Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (Nox) Emissions.	03/16/01
3003	Applications	03/16/01
3005	Permit Revisions	03/16/01

The following new rules were submitted and will be incorporated:

Rule number	Rule name	Adoption date
1132	Further Control of VOC Emissions from High-Emitting Spray Booth Facilities	01/19/01
1612.1	Mobile Source Credit Generation Pilot Program	03/16/01
3008	Potential to Emit Limitations	03/16/01

The following rule was submitted, but will not be incorporated because it does not apply to OCS sources:

Rule number	Rule name	Adoption date
1425	Motion Picture Film Labs	03/16/01

The following rule was previously proposed for incorporation, but will be removed as a result of a comment from the Department of Interior and agreement from the South Coast AQMD that it does not apply to OCS sources:

Rule number	Rule name	Adoption date
403.1	Wind Entrainment of Fugitive Dust	06/16/00

3. After review of the rule submitted by Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rule revision applicable to OCS sources for which the Ventura County APCD is designated as the COA:

Rule number	Rule Name	Adoption Date
74.9	Stationary Internal Combustion Engines	11/14/00

[2] Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14(c)(4).

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

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

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

D. Executive Order 13132

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

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

E. Regulatory Flexibility Act

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

F. Unfunded Mandates

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

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

G. National Technology Transfer and Advancement Act

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

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

H. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant action under Executive Order 12866.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons,

Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 8, 2001.

Keith Takata,

Acting Regional Administrator, Region IX.

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is proposed to be amended by revising paragraphs (e)(3)(ii) (F), (G) and (H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources.*

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources.*

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.*

* * * * *

Appendix to Part 55—[Amended]

3. Appendix A to 40 CFR part 55 is proposed to be amended by revising paragraph (b) (6), (7) and (8) under the heading ''California'' to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State.

* * * * *

California

* * * * *

(b) Local requirements.

* * * * *

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources:*

Rule 102 Definitions (Adopted 5/20/99)
Rule 103 Severability (Adopted 10/23/78)
Rule 106 Notice to Comply for Minor Violations (Adopted 7/15/99)
Rule 201 Permits Required (Adopted 4/17/97)
Rule 202 Exemptions to Rule 201 (Adopted 4/17/97)
Rule 203 Transfer (Adopted 4/17/97)
Rule 204 Applications (Adopted 4/17/97)
Rule 205 Standards for Granting Applications (Adopted 4/17/97)
Rule 206 Conditional Approval of Authority to Construct or Permit to Operate (Adopted 10/15/91)
Rule 207 Denial of Application (Adopted 10/23/78)
Rule 210 Fees (Adopted 4/17/97)
Rule 212 Emission Statements (Adopted 10/20/92)
Rule 301 Circumvention (Adopted 10/23/78)
Rule 302 Visible Emissions (Adopted 10/23/78)
Rule 304 Particulate Matter—Northern Zone (Adopted 10/23/78)
Rule 305 Particulate Matter Concentration—Southern Zone (Adopted 10/23/78)
Rule 306 Dust and Fumes—Northern Zone (Adopted 10/23/78)
Rule 307 Particulate Matter Emission Weight Rate—Southern Zone (Adopted 10/23/78)
Rule 308 Incinerator Burning (Adopted 10/23/78)
Rule 309 Specific Contaminants (Adopted 10/23/78)
Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312 Open Fires (Adopted 10/2/90)
Rule 316 Storage and Transfer of Gasoline (Adopted 4/17/97)
Rule 317 Organic Solvents (Adopted 10/23/78)
Rule 318 Vacuum Producing Devices or Systems—Southern Zone (Adopted 10/23/78)
Rule 321 Solvent Cleaning Operations (Adopted 9/18/97)
Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323 Architectural Coatings (Adopted 7/18/96)
Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325 Crude Oil Production and Separation (Adopted 01/18/01)
Rule 326 Storage of Reactive Organic Liquid Compounds (Adopted 01/18/01)
Rule 327 Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330 Surface Coating of Miscellaneous Metal Parts and Products (Adopted 1/20/00)
Rule 331 Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)
Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 6/11/79)
Rule 333 Control of Emissions from Reciprocating Internal Combustion Engines (Adopted 4/17/97)
Rule 342 Control of Oxides of Nitrogen (NO_X) from Boilers, Steam Generators and Process Heaters) (Adopted 4/17/97)
Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)
Rule 344 Petroleum Sumps, Pits, and Well Cellars (Adopted 11/10/94)
Rule 346 Loading of Organic Liquid Cargo Vessels (Adopted 01/18/01)
Rule 352 Natural Gas-Fired Fan-Type Central Furnaces and Residential Water Heaters (Adopted 9/16/99)
Rule 353 Adhesives and Sealants (Adopted 8/19/99)
Rule 359 Flares and Thermal Oxidizers (6/28/94)
Rule 370 Potential to Emit—Limitations for Part 70 Sources (Adopted 6/15/95)
Rule 505 Breakdown Conditions Sections A., B.1, and D. only (Adopted 10/23/78)
Rule 603 Emergency Episode Plans (Adopted 6/15/81)
Rule 702 General Conformity (Adopted 10/20/94)
Rule 801 New Source Review (Adopted 4/17/97)
Rule 802 Nonattainment Review (Adopted 4/17/97)
Rule 803 Prevention of Significant Deterioration (Adopted 4/17/97)
Rule 804 Emission Offsets (Adopted 4/17/97)
Rule 805 Air Quality Impact Analysis and Modeling (Adopted 4/17/97)
Rule 808 New Source Review for Major Sources of Hazardous Air Pollutants (Adopted 5/20/99)
Rule 1301 Part 70 Operating Permits—General Information (Adopted 4/17/97)
Rule 1302 Part 70 Operating Permits—Permit Application (Adopted 11/09/93)
Rule 1303 Part 70 Operating Permits—Permits (Adopted 11/09/93)
Rule 1304 Part 70 Operating Permits—Issuance, Renewal, Modification and Reopening (Adopted 11/09/93)
Rule 1305 Part 70 Operating Permits—Enforcement (Adopted 11/09/93)

(7) *The following requirements are contained in South Coast Air Quality Management District Requirements Applicable to OCS Sources* (Part I, II and III):

Rule 102 Definition of Terms (Adopted 4/9/99)
Rule 103 Definition of Geographical Areas (Adopted 1/9/76)
Rule 104 Reporting of Source Test Data and Analyses (Adopted 1/9/76)
Rule 108 Alternative Emission Control Plans (Adopted 4/6/90)
Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 8/18/00)
Rule 112 Definition of Minor Violation and Guidelines for Issuane of Notice to Comply (Adopted 11/13/98)
Rule 118 Emergencies (Adopted 12/7/95)
Rule 201 Permit to Construct (Adopted 1/5/90)
Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 1/5/90)
Rule 202 Temporary Permit to Operate (Adopted 5/7/76)
Rule 203 Permit to Operate (Adopted 1/5/90)
Rule 204 Permit Conditions (Adopted 3/6/92)
Rule 205 Expiration of Permits to Construct (Adopted 1/5/90)
Rule 206 Posting of Permit to Operate (Adopted 1/5/90)

Rule 207 Altering or Falsifying of Permit (Adopted 1/9/76)
Rule 208 Permit for Open Burning (Adopted 1/5/90)
Rule 209 Transfer and Voiding of Permits (Adopted 1/5/90)
Rule 210 Applications and Regulation II—List and Criteria Identifying Information required of Applicants Seeking a Permit to Construct from the SCAQMD (Adopted 4/10/98)
Rule 211 Definition of Minor Violation and Guidelines for Issuance of Notice to Comply (Adopted 11/13/98)
Rule 212 Standards for Approving Permits (Adopted 12/7/95) except (c)(3) and (e)
Rule 214 Denial of Permits (Adopted 1/5/90)
Rule 217 Provisions for Sampling and Testing Facilities (Adopted 1/5/90)
Rule 218 Continuous Emission Monitoring (Adopted 5/14/99)
Rule 218.1 Continuous Emission Monitoring Performance Specifications (Adopted 5/14/99)
Rule 218.1 Attachment A—Supplemental and Alternative CEMS Performance Requirements (Adopted 5/14/99)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 11/17/00)
Rule 220 Exemption—Net Increase in Emissions (Adopted 8/7/81)
Rule 221 Plans (Adopted 1/4/85)
Rule 301 Permit Fees (Adopted 5/19/00) except (e)(6)and Table IV
Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 5/19/00)
Rule 304.1 Analyses Fees (Adopted 5/19/00)
Rule 305 Fees for Acid Deposition (Adopted 10/4/91)
Rule 306 Plan Fees (Adopted 5/19/00)
Rule 309 Fees for Regulation XVI Plans (Adopted 5/19/00)
Rule 401 Visible Emissions (Adopted 9/11/98)
Rule 403 Fugitive Dust (Adopted 12/11/98)
Rule 404 Particulate Matter—Concentration (Adopted 2/7/86)
Rule 405 Solid Particulate Matter—Weight (Adopted 2/7/86)
Rule 407 Liquid and Gaseous Air Contaminants (Adopted 4/2/82)
Rule 408 Circumvention (Adopted 5/7/76)
Rule 409 Combustion Contaminants (Adopted 8/7/81)
Rule 429 Start-Up and Shutdown Provisions for Oxides of Nitrogen (Adopted 12/21/90)
Rule 430 Breakdown Provisions, (a) and (e) only (Adopted 7/12/96)
Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 6/12/98)
Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 9/15/00)
Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 5/7/76)
Rule 441 Research Operations (Adopted 5/7/76)
Rule 442 Usage of Solvents (Adopted 12/15/00)
Rule 444 Open Fires (Adopted 10/2/87)
Rule 463 Organic Liquid Storage (Adopted 3/11/94)
Rule 465 Vacuum Producing Devices or Systems (Adopted 8/13/99)
Rule 468 Sulfur Recovery Units (Adopted 10/8/76)
Rule 473 Disposal of Solid and Liquid Wastes (Adopted 5/7/76)
Rule 474 Fuel Burning Equipment-Oxides of Nitrogen (Adopted 12/4/81)
Rule 475 Electric Power Generating Equipment (Adopted 8/7/78)
Rule 476 Steam Generating Equipment (Adopted 10/8/76)
Rule 480 Natural Gas Fired Control Devices (Adopted 10/7/77) Addendum to Regulation IV (Effective 1977)
Rule 518 Variance Procedures for Title V Facilities (Adopted 8/11/95)
Rule 518.1 Permit Appeal Procedures for Title V Facilities (Adopted 8/11/95)
Rule 518.2 Federal Alternative Operating Conditions (Adopted 1/12/96)
Rule 701 Air Pollution Emergency Contingency Actions (Adopted 6/13/97)
Rule 702 Definitions (Adopted 7/11/80)
Rule 704 Episode Declaration (Adopted 7/9/82)
Rule 707 Radio—Communication System (Adopted 7/11/80)
Rule 708 Plans (Adopted 7/9/82)
Rule 708.1 Stationary Sources Required to File Plans (Adopted 4/4/80)
Rule 708.2 Content of Stationary Source Curtailment Plans (Adopted 4/4/80)
Rule 708.4 Procedural Requirements for Plans (Adopted 7/11/80)
Rule 709 First Stage Episode Actions (Adopted 7/11/80)
Rule 710 Second Stage Episode Actions (Adopted 7/11/80)
Rule 711 Third Stage Episode Actions (Adopted 7/11/80)
Rule 712 Sulfate Episode Actions (Adopted 7/11/80)
Rule 715 Burning of Fossil Fuel on Episode Days (Adopted 8/24/77)
Regulation IX—New Source Performance Standards (Adopted 5/19/00)
Rule 1106 Marine Coatings Operations (Adopted 1/13/95)
Rule 1107 Coating of Metal Parts and Products (Adopted 11/17/00)
Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 8/5/88)
Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Adopted 11/14/97)
Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Adopted 10/4/85)
Rule 1110.2 Emissions from Gaseous -and Liquid Fueled Internal Combustion Engines (Adopted 11/14/97)
Rule 1113 Architectural Coatings (Adopted 5/14/99)
Rule 1116.1 Lightering Vessel Operations-Sulfur Content of Bunker Fuel (Adopted 10/20/78)
Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 12/10/99)
Rule 1122 Solvent Degreasers (Adopted 7/11/97)
Rule 1123 Refinery Process Turnarounds (Adopted 12/7/90)
Rule 1129 Aerosol Coatings (rescinded 3/8/96)
Rule 1132 Further Control of VOC Emissions from High-Emitting Spray Booth Facilitites (Adopted 01/19/01)
Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 8/8/97)
Rule 1136 Wood Products Coatings (Adopted 6/14/96)
Rule 1140 Abrasive Blasting (Adopted 8/2/85)
Rule 1142 Marine Tank Vessel Operations (Adopted 7/19/91)
Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 11/17/00)
Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 5/13/94)
Rule 1146.2 Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 1/9/98)
Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/5/82)
Rule 1149 Storage Tank Degassing (Adopted 7/14/95)
Rule 1168 Adhesive and Sealant Applications (Adopted 9/15/00)
Rule 1171 Solvent Cleaning Operations (Adopted 10/8/99)
Rule 1173 Fugitive Emissions of Volatile Organic Compounds (Adopted 5/13/94)
Rule 1176 VOC Emissions from Wastewater Systems (Adopted 9/13/96)
Rule 1301 General (Adopted 12/7/95)
Rule 1302 Definitions (Adopted 10/20/00)
Rule 1303 Requirements (Adopted 2/16/01)
Rule 1304 Exemptions (Adopted 6/14/96)
Rule 1306 Emission Calculations (Adopted 10/20/00)
Rule 1313 Permits to Operate (Adopted 12/7/95)
Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 4/8/94)
Rule 1605 Credits for the Voluntary Repair of On-Road Vehicles Identified Through Remote Sensing Devices (Adopted 10/11/96)
Rule 1610 Old-Vehicle Scrapping (Adopted 2/12/99)
Rule 1612 Credits for Clean On-Road Vehicles (Adopted 7/10/98)
Rule 1612.1 Mobile Source Credit Generation Pilot Program (Adopted 3/16/01)
Rule 1620 Credits for Clean Off-Road Mobile Equipment (Adopted 7/10/98)
Rule 1701 General (Adopted 8/13/99)
Rule 1702 Definitions (Adopted 8/13/99)
Rule 1703 PSD Analysis (Adopted 10/7/88)
Rule 1704 Exemptions (Adopted 8/13/99)
Rule 1706 Emission Calculations (Adopted 8/13/99)
Rule 1713 Source Obligation (Adopted 10/7/88)
Regulation XVII Appendix (effective 1977)
Rule 1901 General Conformity (Adopted 9/9/94)
Rule 2000 General (Adopted 10/20/00)
Rule 2001 Applicability (Adopted 2/14/97)
Rule 2002 Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X) Emissions (Adopted 2/14/97)
Rule 2004 Requirements (Adopted 7/12/96) except (l)

Rule 2005 New Source Review for RECLAIM (Adopted 4/9/99) except (i)
Rule 2006 Permits (Adopted 12/7/95)
Rule 2007 Trading Requirements (Adopted 12/7/95)
Rule 2008 Mobile Source Credits (Adopted 10/15/93)
Rule 2010 Administrative Remedies and Sanctions (Adopted 10/15/93)
Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions (Adopted 3/16/01)
Appendix A Volume IV—(Protocol for oxides of sulfur) (Adopted 3/10/95)
Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions (Adopted 3/16/01)
Appendix A Volume V—(Protocol for oxides of nitrogen) (Adopted 3/10/95)
Rule 2015 Backstop Provisions (Adopted 2/14/97) except (B)(1)(G) and (b)(3)(B)
Rule 2100 Registration of Portable Equipment (Adopted 7/11/97)
Rule 2506 Area Source Credits for NO_X and SO_X (Adopted 12/10/99)
XXX Title V Permits
Rule 3000 General (Adopted 11/14/97)
Rule 3001 Applicability (Adopted 11/14/97)
Rule 3002 Requirements (Adopted 11/14/97)
Rule 3003 Applications (Adopted 3/16/01)
Rule 3004 Permit Types and Content (Adopted 11/14/97)
Rule 3005 Permit Revisions (Adopted 3/16/01)
Rule 3006 Public Participation (Adopted 11/14/97)
Rule 3007 Effect of Permit (Adopted 10/8/93)
Rule 3008 Potential To Emit Limitations (3/16/01)
XXXI Acid Rain Permit Program (Adopted 2/10/95)

(8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources:*

Rule 2 Definitions (Adopted 11/10/98)
Rule 5 Effective Date (Adopted 5/23/72)
Rule 6 Severability (Adopted 11/21/78)
Rule 7 Zone Boundaries (Adopted 6/14/77)
Rule 10 Permits Required (Adopted 6/13/95)
Rule 11 Definition for Regulation II (Adopted 6/13/95)
Rule 12 Application for Permits (Adopted 6/13/95)
Rule 13 Action on Applications for an Authority to Construct (Adopted 6/13/95)
Rule 14 Action on Applications for a Permit to Operate (Adopted 6/13/95)
Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16 BACT Certification (Adopted 6/13/95)
Rule 19 Posting of Permits (Adopted 5/23/72)
Rule 20 Transfer of Permit (Adopted 5/23/72)
Rule 23 Exemptions from Permits (Adopted 7/9/96)
Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)
Rule 26 New Source Review (Adopted 10/22/91)
Rule 26.1 New Source Review—Definitions (Adopted 1/13/98)
Rule 26.2 New Source Review—Requirements (Adopted 1/13/98)
Rule 26.6 New Source Review—Calculations (Adopted 1/13/98)
Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.10 New Source Review—PSD (Adopted 1/13/98)
Rule 28 Revocation of Permits (Adopted 7/18/72)
Rule 29 Conditions on Permits (Adopted 10/22/91)
Rule 30 Permit Renewal (Adopted 5/30/89)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)
Rule 33 Part 70 Permits—General (Adopted 10/12/93)
Rule 33.1 Part 70 Permits—Definitions (Adopted 10/12/93)
Rule 33.2 Part 70 Permits—Application Contents (Adopted 10/12/93)
Rule 33.3 Part 70 Permits—Permit Content (Adopted 10/12/93)
Rule 33.4 Part 70 Permits—Operational Flexibility (Adopted 10/12/93)
Rule 33.5 Part 70 Permits—Time frames for Applications, Review and Issuance (Adopted 10/12/93)
Rule 33.6 Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)
Rule 33.7 Part 70 Permits—Notification (Adopted 10/12/93)
Rule 33.8 Part 70 Permits—Reopening of Permits (Adopted 10/12/93)
Rule 33.9 Part 70 Permits—Compliance Provisions (Adopted 10/12/93)
Rule 33.10 Part 70 Permits—General Part 70 Permits (Adopted 10/12/93)
Rule 34 Acid Deposition Control (Adopted 3/14/95)
Rule 35 Elective Emission Limits (Adopted 11/12/96)
Rule 36 New Source Review—Hazardous Air Pollutants (Adopted 10/6/98)
Rule 42 Permit Fees (Adopted 6/13/00)
Rule 44 Exemption Evaluation Fee (Adopted 9/10/96)
Rule 45 Plan Fees (Adopted 6/19/90)
Rule 47 Source Test, Emission Monitor, and Call-Back Fees (Adopted 6/22/99)
Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)
Rule 50 Opacity (Adopted 2/20/79)
Rule 52 Particulate Matter-Concentration (Adopted 5/23/72)
Rule 53 Particulate Matter-Process Weight (Adopted 7/18/72)
Rule 54 Sulfur Compounds (Adopted 6/14/94)
Rule 56 Open Fires (Adopted 3/29/94)
Rule 57 Combustion Contaminants-Specific (Adopted 6/14/77)
Rule 60 New Non-Mobile Equipment-Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter (Adopted 7/8/72)
Rule 62.7 Asbestos—Demolition and Renovation (Adopted 6/16/92)
Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64 Sulfur Content of Fuels (Adopted 4/13/99)
Rule 67 Vacuum Producing Devices (Adopted 7/5/83)
Rule 68 Carbon Monoxide (Adopted 6/14/77)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)
Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)
Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)
Rule 72 New Source Performance Standards (NSPS) (Adopted 9/10/96)
Rule 74 Specific Source Standards (Adopted 7/6/76)
Rule 74.1 Abrasive Blasting (Adopted 11/12/91)
Rule 74.2 Architectural Coatings (Adopted 08/11/92)
Rule 74.6 Surface Cleaning and Degreasing (Adopted 11/10/98)
Rule 74.6.1 Cold Cleaning Operations (Adopted 7/9/96)
Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 7/9/96)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 10/10/95)
Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/21/93)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 3/10/95)
Rule 74.11 Natural Gas-Fired Residential Water Heaters-Control of NO_X (Adopted 4/9/85)
Rule 74.11.1 Large Water Heaters and Small Boilers (Adopted 9/14/99)
Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 9/10/96)
Rule 74.15 Boilers, Steam Generators and Process Heaters (Adopted 11/8/94)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (Adopted 6/13/00)
Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)
Rule 74.20 Adhesives and Sealants (Adopted 1/14/97)
Rule 74.23 Stationary Gas Turbines (Adopted 10/10/95)
Rule 74.24 Marine Coating Operations (Adopted 9/10/96)
Rule 74.24.1 Pleasure Craft Coating and Commercial Boatyard Operations (Adopted 11/10/98)
Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.28 Asphalt Roofing Operations (Adopted 5/10/94)

Rule 74.30 Wood Products Coatings (Adopted 9/10/96)
Rule 75 Circumvention (Adopted 11/27/78)
Rule 100 Analytical Methods (Adopted 7/18/72)
Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)
Rule 102 Source Tests (Adopted 11/21/78)
Rule 103 Continuous Monitoring Systems (Adopted 2/9/99)
Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)
Rule 158 Source Abatement Plans (Adopted 9/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)
Rule 220 General Conformity (Adopted 5/9/95)
Rule 230 Notice to Comply (Adopted 11/9/99)

* * * * *

[FR Doc. 01–16290 Filed 6–27–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1465, MM Docket No. 01–128, RM–10133]

Digital Television Broadcast Service; Charleston, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WCSC Inc., licensee of station WCSC-TV, NTSC channel 5, Charleston, South Carolina, requesting the substitution of DTV channel 47 for station WCSC-TV's assigned DTV channel 52. DTV Channel 47 can be allotted to Charleston, South Carolina, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (32–55–28 N. and 79–41–58 W.). As requested, we propose to allot DTV Channel 47 to Charleston with a power of 1000 and a height above average terrain (HAAT) of 597 meters.

DATES: Comments must be filed on or before August 9, 2001, and reply comments on or before August 24, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James R. Bayes, E. Joseph Knoll III, Wiley, Rein & Fielding, 1776 K Street, NW, Washington, DC 20006 (Counsel for WCSC, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–128, adopted June 22, 2001, and released June 25, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

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

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

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

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Carolina is amended by removing DTV Channel 52 and adding DTV Channel 47 at Charleston.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–16238 Filed 6–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1464, MM Docket No. 01–127, RM–10132]

Digital Television Broadcast Service; Pittsburg, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Saga Quad States Communications, Inc., licensee of station KOAM-TV, NTSC channel 7, Pittsburg, Kansas, requesting the substitution of DTV 13 for station KOAM–TV's assigned DTV channel 30. DTV Channel 13 can be allotted to Pittsburg, Kansas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (37–13–15 N. and 94–42–23 W.). As requested, we propose to allot DTV Channel 13 to Pittsburg with a power of 4.2 and a height above average terrain (HAAT) of 336 meters.

DATES: Comments must be filed on or before August 9, 2001, and reply comments on or before August 24, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Smithwick & Belendiuk, PC, 5028 Wisconsin Avenue, NW, Suite 301, Washington, DC 20016 (Counsel for Saga Quad States Communications).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-127, adopted June 22, 2001, and released June 25, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter

is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Kansas is amended by removing DTV Channel 30 and adding DTV Channel 13 at Pittsburg.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–16239 Filed 6–27–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600, 635, and 648

[Docket No. 010612153–1153–01; I.D. 041901A]

RIN 0648–AP21

Fisheries Off West Coast States and in the Western Pacific; Atlantic Highly Migratory Species; Fisheries of the Northeastern United States

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a rule that would implement the provisions of the Shark Finning Prohibition Act (Act) that prohibit any person under U.S. jurisdiction from engaging in shark finning in waters seaward of the inner boundary of the U.S. exclusive economic zone (EEZ), possessing shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ on board a fishing vessel without corresponding shark carcasses, or landing shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ without corresponding carcasses. The Act requires the Secretary of Commerce to issue regulations to implement it and the intent of this action is to propose such regulations.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on July 30, 2001. Comments may also be submitted at a public hearing to be held on the proposed rule on July 11, 2001, NOAA Auditorium, 1301 East-West Highway, Silver Spring, MD, 5 p.m. EDT.

ADDRESSES: Written comments should be sent to Dr. Rebecca Lent, Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802. Comments may also be sent via facsimile at 562–980–4047. Comments will not be accepted if submitted by email or Internet. For copies of the draft environmental Assessment (EA) or regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA), contact Svein Fougner at 562–980–4040.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, at 562–980–4040; or Charles Karnella, Administrator, Pacific Island Area Office, NMFS, at 808–973–2935; or Karyl Brewster-Geisz, NMFS headquarters, at 301–713–2347.

SUPPLEMENTARY INFORMATION: Due to concerns about the status of shark populations and the effects of heavy fishing on such populations, the Congress passed, and the President signed, on December 21, 2000, the Shark Finning Prohibition Act. This Act amends the Magnuson-Stevens Fishery Management and Conservation Act (Magnuson-Stevens Act). The Act prohibits any person subject to U.S. jurisdiction from: (1) Engaging in shark finning (finning is the practice of removing the fin or fins from a shark and discarding the remainder of the shark) at sea; (2) possessing shark fins aboard a fishing vessel without the corresponding carcass; and (3) landing shark fins without a corresponding carcass.

By becoming a signatory nation to the United Nations Food and Agriculture Organization's International Plan of Action on Sharks, the United States has agreed that shark conservation is a concern, both domestically and internationally. The United States has also agreed that all nations and international fishery organizations should take action to ensure that shark populations are monitored, and fishery conservation measures are implemented, to protect sharks from over-exploitation. The strong international market for shark fins has increased the potential for fishing shark stocks at unsustainable levels. Uncontrolled shark finning may lead to unsustainable shark harvests, as well as the waste of usable (but often relatively lower value) shark meat. In addition, the species of shark often cannot be determined from the fins alone. Thus, when finning is practiced, the effects of fisheries on specific shark species is difficult to discern because appropriate mortality data are not available for stock assessments. The intent of the Act is to eliminate the wasteful and unsportsmanlike practice of shark finning. The intent of this proposed rule is to achieve the intent of the Act.

The practice of shark finning has been prohibited in the Federal waters of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea since 1993 for 39 species of sharks contained in the management unit of the Fishery Management Plan (FMP) for Sharks of the Atlantic Ocean. In 1999, the FMP for Sharks of the Atlantic Ocean was replaced, and the prohibition on shark finning expanded to an additional 33 species of sharks, by the FMP for Atlantic Tunas, Swordfish, and Sharks (HMS FMP). The only species of shark for which finning was not expressly prohibited by the HMS FMP was spiny dogfish; however, the Spiny Dogfish FMP prohibited the finning of spiny dogfish in Federal waters in January 2000. This proposed rule would not affect any of the regulations implementing the HMS and Spiny Dogfish FMPs, including those prohibiting finning or imposing reporting requirements.

To implement the Act, the proposed rule would prohibit: (1) Any person on a U.S. fishing vessel from engaging in shark finning in waters seaward of the inner boundary of the U.S. EEZ; however, a U.S. fisher would not be prohibited from removing and retaining fins from a shark on a vessel, providing the corresponding carcass is retained on board the vessel; (2) any person on a U.S. fishing vessel from possessing shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ

on board the vessel without the corresponding shark carcass; (3) any person on a U.S. fishing vessel from landing shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ without the corresponding carcass; and (4) any person on a foreign fishing vessel from engaging in finning in the U.S. EEZ and from landing shark fins in or inside the U.S. EEZ without the corresponding carcass. In addition, the rule would require that all shark fins and carcasses be landed and weighed at the same time, once landing of shark fins and/or shark carcasses has begun. This proposed rule would not affect any reporting requirements currently in place for fisheries that take sharks.

In accordance with the requirements of the Act, it would be a rebuttable presumption that any shark fin or fins found on board a U.S. fishing vessel, or landed from any fishing vessel, were taken, held, or landed in violation of these regulations if the total weight of shark fins landed or found on board exceeds 5 percent of the total dressed weight of shark carcasses landed or found on board the vessel. It would be the responsibility of the person involved to rebut the presumption by providing evidence that there is good reason for the weight of the fins to exceed the 5–percent threshold. NMFS has used wet weight to apply the 5–percent limit for shark fins landed in the Atlantic, Gulf, and Caribbean, where the fins are generally wet when landed. In the western Pacific, foreign vessels generally have landed dry fins, and it is believed that about half the weight of the fin is lost in the drying process. Domestic vessels, on the other hand, generally land fins that are relatively wet as the fishing trips are normally 20 days or less and complete drying can not be achieved in that time. Inasmuch as there is not expected to be any landing of fins by foreign vessels that have taken long trips and land only dry fins, and domestic landings (if any) will likely only be of fins with relatively fresh shark carcasses, it appears logical to use the wet weight (or equivalent) as the standard for application of the 5–percent limit. NMFS specifically seeks comments regarding how ''wet'' should be defined for purposes of this regulation.

The prohibition of landing shark fins without carcasses would extend to any vessel (including a cargo or shipping vessel) that obtained those fins from another vessel at sea. Any such transfer of shark fins effectively would make the receiving vessel a ''fishing vessel'', as the receiving vessel is acting ''in support of fishing.'' Thus, the receiving vessel would be prohibited from landing shark fins without corresponding carcasses under the proposed rule.

Applicability

This proposed rule would not apply to sharks harvested from state waters. The Act does not contain an express preemption of state authority over state waters. However, the Act's prohibition on removing any of the fins of a shark (including the tail) and discarding the carcass of the shark uses the terms ''discard the carcass of the shark at sea'' suggesting that this prohibition applies to state waters as well as waters beyond the inner boundary of the U.S. EEZ. NMFS specifically requests public comment on whether the Act is applicable to sharks harvested from state waters and whether NMFS should issue shark finning regulations applicable to state waters.

It is noted that some states have more restrictive provisions dealing with shark fishing and finning than the prohibitions and requirements that would be imposed by this rule with respect to sharks and their fins harvested from waters seaward of the inner boundary of the U.S. EEZ. This proposed rule would not have any affect on state regulations applicable to sharks and their fins harvested from state waters or to state regulations more restrictive with respect to the landing of sharks and their fins harvested from waters seaward of the inner boundary of the U.S. EEZ.

Effects of Proposed Action

The proposed rule would directly affect: (1) Owners, operators, and crew of U.S. fishing vessels in waters seaward of the inner boundary of the U.S. EEZ that engage in finning, and the landing and sale of those fins; (2) owners and employees of U.S. firms that buy and sell shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ (which could include U.S. fishing vessels and foreign vessels that obtain fins without carcasses from foreign vessels at sea); and (3) owners, operators, and crew of foreign fishing vessels that would otherwise land shark fins without carcasses in or inside the U.S. EEZ. Shark finning has been prohibited in the Federal waters of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea since 1993, and finning of spiny dogfish in this region was prohibited in 2000. Further, finning is effectively prohibited under state regulations on the West Coast and in the North Pacific, as well as in a number of Atlantic states and Hawaii. In Hawaii, while it is reported that about 60,000 sharks were finned by the Hawaii-based longline fleet in 1999, finning has since been prohibited by state law, and thus this rule will not have large impacts in Hawaii. Therefore, there will be minimal impacts in these areas.

Most, if not all, the impacts would likely affect businesses in the Western Pacific. It is estimated that shark finning accounts for between $1.8 million and $2.5 million of economic activity in the western Pacific (not including the values formerly attributable to finning by domestic vessels in Hawaii until 2000, when finning was prohibited).

The proposed action is expected to have moderate impacts on fishers and businesses in Guam and American Samoa, where shark fin landings have been made and substantial sales and trade in shark fins have been conducted for many years. In Guam and American Samoa, domestic landings of shark fins have been very low; however, foreign longline vessels have landed shark fins there in the past. Under the proposed rule, sales of those fins would be prohibited unless the corresponding carcasses were also landed. This prohibition would also affect the earnings of crew on foreign fishing vessels because the revenue from fin sales often accrues directly to crew members. If that income is reduced, there could be less spending by crew members in port calls in American Samoa and Guam.

The proposed rule could indirectly affect U.S. retailers and consumers of shark fins, but the extent of impact cannot be determined with available data. It is possible that shark fins, which would no longer be available from domestic landings, would be available through air, ocean, or surface freight shipments. It is also possible that the price of shark fins would rise due to lower supply. The proposed rule would not directly affect the owners and employees of businesses that are engaged in domestic and international shipments of, and trade in, shark fins in containers or other such shipments, or the owners and employees of businesses that provide supplies and services to foreign fishing vessels that may (but do not necessarily) engage in shark finning and associated sales.

No reporting or recordkeeping requirements are proposed in this rule. Reporting requirements currently in place are sufficient for monitoring and enforcement of these regulations. However, these regulations may be amended if information or conditions demonstrate that additional reporting or recordkeeping requirements are necessary to achieve the purposes of the Act. This could include changes in the information required in logbook forms, a requirement that records be kept and

submitted of the weight of shark fins and carcasses landed, or other information requirements. NMFS will work with the regional fishery management councils (councils) and interstate marine fisheries commissions to determine if changes are needed to ensure adequate records for monitoring the fisheries and enforcing the prohibitions. If any changes are needed in reporting and recordkeeping requirements, they may be made nationally or in separate regions.

Alternative Construction of the Statute

NMFS considered applying a broader interpretation of the Act, and this would be expected to have much greater impacts on foreign fishermen. One alternative would be to prohibit foreign fishing vessels from possessing shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ without carcasses while in U.S. ports. This could result in a substantial reduction in the use of those ports by foreign longline vessels that have shark fins on board without corresponding carcasses. It is estimated that this activity generates between $40 to $60 million per year in sales by Hawaiian businesses. Another alternative would be to prohibit landings of shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ without carcasses by non-fishing vessels, such as cargo vessels shipping fins to a U.S. port. Under this alternative, there would be greater impacts on shippers, retailers, and consumers. U.S. Customs Service data indicate that documented imports and exports of shark fins into and out of the U.S. were valued at $3 million and $5 million, respectively, in 1999. Under this alternative, these shipments would likely be eliminated and shark fins could only enter the U.S. via air or land freight.

Another alternative would be to extend the prohibition of possession of shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ aboard any vessel under U.S. jurisdiction to all foreign fishing vessels whenever they are in the EEZ, even if not engaged in fishing. This could force some vessels fishing throughout the Pacific to adjust their navigation routes at high expense. It also would constitute an infringement on the right of freedom of navigation. This construction appears to go beyond the intent of the Act.

NMFS also considered not promulgating these regulations and using fishery management plans prepared by councils (and by the Secretary with respect to Atlantic Ocean, Gulf of Mexico, and Caribbean shark fishery management) under the Magnuson-Stevens Act to implement the Act. However, this would not meet the statutory requirements of the Act.

Finally, NMFS notes that it has received a petition from the Western Pacific Fisheries Coalition of Kailua, HI, to ban shark finning. The proposed rule would address the Coalition's concern about the need for action to restrict or prohibit shark finning in waters seaward of the inner boundary of the U.S. EEZ. In light of this action, NMFS has concluded that it is not necessary to take any action in response to that petition.

Public Hearing

NMFS will hold a public hearing on this proposed rule in Silver Spring, MD, on July 11, 2001.

Classification

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

NMFS prepared an IRFA that describes the impact this proposed rule would have on small entities, if adopted. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

The principal effect of this action would be to terminate finning and landings of fins by U.S. and foreign vessels in the Western Pacific, where persons and businesses will be more seriously affected by the elimination of their principal source of shark fins. The principal affected entities are: (a) U.S. longline and purse seine fishing vessel operators and crew, active in the western Pacific, and the businesses that buy and resell shark fins (without corresponding carcasses) from these vessels; (b) businesses that buy and export shark fins from crew of foreign longline vessels delivering those fins in western Pacific ports; and (c) businesses that sell goods and services to foreign vessel crew members who receive the revenue from the sale of shark fins in U.S. ports. The western Pacific is the only region where shark finning by U.S. interests has not previously been regulated under Federal or state law, and where delivery of fins by foreign vessels has been legal to date. It is not known how dominant a role shark fin trade plays in the economic activity of the affected firms; if trade in shark fins is all that they engage in, then these firms may be forced to cease activity and/or find alternate lines of trade. They may also seek ways to find more valuable uses of sharks (e.g., shark meat, cartilage, skins) such that more carcasses would be retained with the fins and greater values could be derived from the shark catches in the longline fishery. However, any such transition is likely to take some time and the firms would suffer losses until that time. It is estimated that the loss could be between $2–$3 million per year. It is acknowledged that there could be reductions in the availability of shark fins for soup and other products in the U.S. under the proposed rule. However, to the extent that shark fins could be shipped into the U.S. by alternate routes to substitute from direct landings, the supply impacts will be moderated.

As this proposed rule applies only to sharks harvested from waters seaward of the inner boundary of the U.S. EEZ, it does not conflict with any state laws governing fishing activities in state waters. Any state laws and regulations with respect to shark fins harvested from state waters would be unaffected by this rule as well as would be any state law or regulation which are more restrictive with respect to the landing of shark fins harvested from waters beyond the inner boundary of the U.S. EEZ. NMFS intends to work with those states that do not already prohibit the landing of shark fins without the corresponding shark carcasses to enact appropriate laws and/or to issue appropriate regulations so that the objectives of the Act are fully achieved.

NMFS initiated an informal consultation on May 31, 2001, with regard to the effects of this proposed rule on endangered and threatened species under NMFS' jurisdiction. This consultation is continuing.

NMFS provided the U.S. Fish and Wildlife Service (FWS) with the draft EA and associated background information on the proposed rule and requested that FWS concur with NMFS' determination that the proposed rule would not likely adversely affect any threatened or endangered species under FWS' jurisdiction.

List of Subjects

50 CFR Part 600

Fisheries, Fishing.

50 CFR Part 635

Fisheries, Fishing, Fishing Vessels, Foreign Relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 22, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 600, 635, and 648 are proposed to be amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

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

2. Subpart M is added to read as follows:

Subpart M—Shark Finning

Sec.

§ 600.1019 Purpose and scope.

The regulations in this subpart govern the removal of shark fins and discarding the carcass in waters seaward of the inner boundary of the U.S. EEZ (i.e., shark finning), and the possession and landing into U.S. ports of shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ.

§ 600.1020 Relation to other laws.

(a) The relation of this subpart to other laws is set forth in §§ 600.514 and 600.705 and in paragraphs (b) and (c) of this section.

(b) Regulations pertaining to shark conservation and management for certain fisheries are also set forth in this subpart and in parts 635 (for Federal Atlantic Ocean, Gulf of Mexico, and Caribbean shark fisheries), 648 (for spiny dogfish fisheries), and 660 (for fisheries off West Coast states and in the western Pacific) of this chapter governing those fisheries.

(c) Nothing in this regulation supercedes more restrictive state regulations regarding shark finning.

(d) A person who owns or operates a vessel that has been issued an Atlantic Federal commercial shark limited access permit or a spiny dogfish permit is subject to the reporting and recordkeeping requirements found at parts 635 and 648 of this chapter, respectively.

§ 600.1021 Definitions.

(a) In addition to the definitions in the Magnuson-Stevens Act and § 600.10, the terms used in this subpart have the following meanings:

Land or landing means offloading fish from a fishing vessel, arriving in port to begin offloading fish, or causing fish to be offloaded from a fishing vessel, either to another vessel or to a shoreside facility.

Shark finning means taking a shark, removing a fin or fins (whether or not including the tail), and returning the remainder of the shark to the sea.

(b) If there is any difference between the definitions in this section and in § 600.10, the definitions in this section are the operative definitions for the purposes of the regulations in this subpart.

§ 600.1022 Prohibitions.

(a) In addition to the prohibitions in §§ 600.505 and 600.725, it is unlawful for any person or vessel subject to the jurisdiction of the United States to:

(1) Engage in shark finning, as provided in § 600.1023(a).

(2) Possess shark fins without the corresponding carcasses while on board a U.S. fishing vessel, as provided in § 600.1023 (b).

(3) Land shark fins without the corresponding carcasses, as provided in § 600.1023 (c).

(4) Fail to have all shark fins and carcasses from a U.S. or foreign fishing vessel landed at one time and weighed at the time of the landing, as provided in § 600.1023 (d).

(5) Possess, purchase, offer to sell, or sell shark fins taken, landed, or possessed in violation of this section, as provided in § 600.1023 (e).

(6) When requested, fail to allow an authorized officer or any employee of NMFS designated by a Regional Administrator access to and/or inspection or copying of any records pertaining to the landing, sale, purchase, or other disposition of shark fins and/or shark carcasses, as provided in § 600.1023 (f).

(7) Fail to have shark fins and carcasses recorded as specified in § 635.30 (c)(3) of this chapter.

(8) Fail to have all shark carcasses and fins landed and weighed at the same time if landed in an Atlantic coastal port, and to have all weights being recorded on the weighout slips specified in § 635.5 (a)(2) of this chapter.

(b) For purposes of this section, it is a rebuttable presumption that shark fins found on board, or landed by, a fishing vessel were taken, held, or landed in violation of this section if the total weight of the shark fins on board, or landed, exceeds 5 percent of the total dressed weight of shark carcasses on board or offloaded from the fishing vessel.

§ 600.1023 Shark finning; possession at sea and landing of shark fins.

(a) No person or vessel subject to U.S. jurisdiction shall engage in shark finning in waters seaward of the inner boundary of the U.S. EEZ.

(b) No person on a U.S. fishing vessel seaward of the inner boundary of the U.S. EEZ shall possess on board shark fins without the corresponding carcass(es), except that sharks may be dressed at sea.

(c) No person on board a U.S. or foreign fishing vessel shall land shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ without corresponding shark carcasses.

(d) Except as provided in paragraphs (g) and (h) of this section, a person who operates a U.S. or foreign fishing vessel and who lands shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ shall land all fins and corresponding carcasses from the vessel at the same point of landing and shall have all fins and carcasses weighed at that time.

(e) A person may not possess, purchase, offer to sell, or sell shark fins taken, landed, or possessed in violation of this section.

(f) Upon request, a person shall allow an authorized officer or any employee of NMFS designated by a Regional Administrator access to, and/or inspection or copying of, any records pertaining to the landing, sale, purchase, or other disposition of shark fins and/or shark carcasses.

(g) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark limited access permit and who lands shark in an Atlantic coastal port must have all fins weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing. Such weights must be recorded on the weighout slips specified in § 635.5 (a)(2) of this chapter.

(h) A person who owns or operates a vessel that has not been issued a Federal Atlantic commercial shark limited access permit and who lands shark in or from the EEZ in an Atlantic coastal port must comply with regulations found at § 635.30 (c)(4) of this chapter.

(i) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark limited access permit and who lands shark in an Atlantic coastal port may not sell fins whose wet weight exceeds 5 percent of the dressed weight of the carcasses.

(j) A dealer may not purchase fins from an owner or operator of a fishing vessel issued a Federal Atlantic commercial shark limited access permit who lands shark in an Atlantic coastal

port whose wet weight exceeds 5 percent of the dressed weight of the carcasses.

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

3. The authority citation for part 635 continues to read as follows:

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

4. In § 635.30, paragraphs (c)(1) through (c)(3) are revised to read as follows:

§ 635.30 Possession at sea and landing.

* * * * *

(c) *Shark.* (1) No person shall possess or offload wet shark fins harvested in waters seaward of the inner boundary of the U.S. EEZ in a quantity that exceeds 5 percent of the dressed weight of the shark carcasses. While shark fins are on board and when shark fins are being offloaded, persons issued a Federal Atlantic commercial shark limited access permit are subject to the regulations at part 600 (subpart M) of this chapter.

(2) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark limited access permit may not fillet a shark at sea. A person may eviscerate and remove the head and fins, but must retain the fins with the dressed carcasses. While on board and when offloaded, wet shark fins may not exceed 5 percent of the dressed weight of the carcasses, in accordance with the regulations at part 600 (subpart M) of this chapter.

(3) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark limited access permit and who lands shark in an Atlantic coastal port must have all fins and carcasses weighed and recorded on the weighout slips specified in § 635.5 (a)(2) and in accordance with regulations at part 600 (subpart M) of this chapter. The wet fins may not exceed 5 percent of the dressed weight of the carcasses.

* * * * *

5. In § 635.31, paragraphs (c)(3) and (c)(5) are revised to read as follows:

§ 635.31 Restrictions on sale and purchase.

(c) * * *

(3) Regulations governing the harvest, possession, landing, purchase, and sale of shark fins are found at part 600 (subpart M) of this chapter and § 635.30 (c).

* * * * *

(5) A dealer may not purchase from an owner or operator of a fishing vessel shark fins that were not harvested in accordance with the regulations found at part 600 (subpart M) of this chapter and § 635.30 (c).

* * * * *

6. In § 635.71, paragraphs (d)(6) and (d)(7) are revised to read as follows:

§ 635.71 Prohibitions.

(d) * * *

(6) Fail to maintain a shark in its proper form, as specified in § 635.30 (c)(4).

(7) Sell or purchase shark fins that are disproportionate to the weight of shark carcasses, as specified in § 635.30 (c)(2) and (c)(3) and § 600.1015 (b) of this chapter.

* * * * *

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

§ 648.14 [Amended]

8. In § 648.14, paragraphs (aa) (4) through (6) are removed and reserved.

[FR Doc. 01–16191 Filed 6–25–01; 4:24 pm]
BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 125
Thursday, June 28, 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

Agricultural Marketing Service

[Docket No. DA–00–06]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's intention to request a revision to a currently approved information collection for the Dairy Forward Pricing Pilot Program.

DATES: Comments on this notice must be received by August 27, 2001 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Contact Dana H. Coale, Marketing Specialist, Order Formulation Branch, Room 2971–S., P.O. Box 96456, Washington, DC 20090–6456, (202) 690–3465, e-mail address Dana.Coale@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Pricing Pilot Program.

OMB Number: 0581–0190.

Expiration Date of Approval: 02/29/04.

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

Abstract: In accordance with Public Law 106–113 (113 Stat. 1536, section 1001(a)(8); 7 U.S.C. 627), amending the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601–674), the Dairy Forward Pricing Pilot Program became effective on July 19, 2000. The pilot program permits a handler to pay producers or cooperative associations a negotiated price, rather than the minimum Federal order price, for milk that is under forward contract, provided that such milk does not exceed the handler's nonfluid use of milk for the month. The law requires that a study be conducted on forward contracting between milk producers and cooperatives and milk handlers and that the results of the study be provided to Congress no later than April 30, 2002. The questionnaires included in this request will provide the information necessary to conduct the mandated study. The questionnaires will be distributed to a sampling of dairy producers, dairy cooperatives and handlers. The questionnaires seek information regarding operation size and location, contract participation, reasons for participating or not participating, impact of contract usage on business operations, and future intentions regarding participation.

The information collection requirements in this request are essential to carrying out the intent of the law. The information collected is the minimum required.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Dairy farmers, dairy cooperative associations, dairy handlers.

Estimated Number of Respondents: 5,100.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,275 burden hours. Comments are invited 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Dana H. Coale, Marketing Specialist, Order Formulation Branch, Rm. 2971–S., P.O. Box 96456, Washington, DC 20090–6456, (202) 690–3465, e-mail address *Dana.Coale@usda.gov.* All comments received will be available for public inspection during regular business hours at the same address.

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

Dated: June 21, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–16213 Filed 6–27–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 5/18/01–6/18/01

Firm name	Address	Date petition accepted	Product
Albany Woodworks, Inc	30380 Payne Alley, Tickfaw, LA 70711.	05/25/01	Door, frames, trim molding and wood floors.
Follett Corporation	801 Church Lane, Easton, PA 18044.	05/25/01	Ice and water dispensing machinery and ice makers for the healthcare and food service industries.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 5/18/01–6/18/01—Continued

Firm name	Address	Date petition accepted	Product
Bearse Manufacturing Co., Inc	3815 West Cortland Street, Chicago, IL 60647.	05/25/01	Luggage and garment bags of nylon, and bags for hand tool dust collection and filtration.
Everbrite, Inc	4949 S. 110th Street, Greenfield, WI 53228.	05/25/01	Illuminated signs.
Harper Manufacturing Co., Inc	617 Lachiocotte Road, Lugoff, SC 29078.	06/04/01	Wooden furniture for the bedroom.
Konkolville Lumber Co., Inc	2705 E. Michigan Avenue, Orofino, ID 83544.	06/04/01	Douglas fir and larch lumber.
Pine Hill Plastics, Inc	10261 Smithville Highway, McMinnville, TN 37111.	06/04/01	Plastic injection component molds for air conditioners, telephone hand sets, and small appliances.
DaMa Jewelry Technology, Inc	25 Oakdale Avenue, Johnston, RI 02919.	06/04/01	Earring clutches, posts and clips.
Chuck Roast Equipment, Inc	Odell Hill Road, Conway, NH 03818.	06/04/01	Men's women's and children's fleece outerwear and sportwear.
Blitz U.S.A., Inc	404 26th Avenue, NW., Miami, Oklahoma 74354.	06/04/01	Plastic gas containers, funnels and pans for the automotive industry.
Ronson Machine & Manufacturing, Inc.	3000 Little Blue Expressway, Independence, MO 64057.	06/05/01	Fabricated sheet metal boxes.
Inland-Joseph Fruit Company	300 North Frontage Road, Wapato, WA 98951.	06/06/01	Fruits—pears, applies, cherries, peaches, nectarines, apricots, plums and prunes.
Hotwatt, Inc	128 Maple Street, Danvers, MA 01923.	06/12/01	Dielectric heating elements.
Apeasay, Inc	789 Highline Road, Hood River, OR 97031.	06/12/01	Pears and apples.
Tahoe Jewelry, Inc	20 J. Medeiros Way, East Providence, RI 02914.	06/13/01	Women's costume necklaces, bracelets, earrings, pins, cuff links and rings.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: June 19, 2001.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 01–16242 Filed 6–27–01; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Initiation of Antidumping Duty Investigation: IQF Red Raspberries from Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of Antidumping Duty Investigation.

EFFECTIVE DATE: June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Craig W. Matney or Jennifer D. Jones at (202) 482–1778 and (202) 482–4194, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR part 351 (April 2000).

The Petition

On May 31, 2001, the Department received a petition filed in proper form by the IQF Red Raspberry Fair Trade Committee (hereinafter ''the petitioner''). The Department received information supplementing the petition throughout the initiation period.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of IQF red raspberries from Chile are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioner and its members filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C), (E) and (G) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department to initiate (*see* the *Industry Support* section, below).

Scope of Investigation

The products covered by this petition are imports of individually quick frozen (IQF) whole or broken red raspberries from Chile, with or without the addition

of sugar or syrup, regardless of variety, grade, size or horticulture method (*e.g.,* organic or not), the size of the container in which packed, or the method of packing. The scope of the petition excludes fresh red raspberries and block frozen red raspberries (*i.e.,* puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under 0811.20.2020 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (see Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27295, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product, and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the ''Scope of Investigations'' section above. No party has commented on the petition's definition of the domestic like product, and there is nothing on the record to indicate that this definition is inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition.

Moreover, the Department has determined that the petition contains adequate evidence of industry support; therefore, polling is unnecessary (*see Initiation Checklist,* dated June 20, 2001 (*Initiation Checklist*), at Industry Support). The petitioner indicated that there may be several additional small U.S. producers accounting for less than 10 percent of U.S. production who are not members of the IQF Red Raspberry Fair Trade Committee. We have no knowledge of any other domestic producers of IQF red raspberries. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

[1] *See Algoma Steel Corp. Ltd.* v. *United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition,* 56 FR 32376, 32380–81 (July 16, 1991).

Initiation Standard for Cost Investigations

Pursuant to section 773(b) of the Act, the petitioner submitted information providing reasonable grounds to believe or suspect that sales made by Chilean producers/exporters in the comparison markets were at prices below the cost of production (COP) and, accordingly, requested that the Department initiate country-wide sales-below-COP investigations in connection with this investigation. The Statement of Administrative Action (SAA), submitted to the Congress in connection with the interpretation and application of the URAA, states that an allegation of sales below COP need not be specific to individual exporters or producers. SAA, H.R. Doc. No. 103–316 at 833 (1994). The SAA, at 833, states that ''Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation.''

Further, the SAA provides that new section 773(b)(2)(A) of the Act retains the requirement that the Department have ''reasonable grounds to believe or suspect'' that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. *Id.* We have analyzed the country-specific allegations as described below.

Export Price and Normal Value

The data used by the petitioner to calculate U.S. price, COP and constructed value (CV) are discussed in the June 20, 2000 Initiation Checklist (*Initiation Checklist*) available in room B–099 of the main Commerce building. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we may re-examine the information and revise the margin calculations, if appropriate.

Export Price

The petitioner based export price (EP) on the unit values for the sales made during the POI, according to Chilean export data. The per-unit prices from the Chilean export statistics are stated on an FOB, Chilean-port basis. Therefore, the petitioner did not subtract any U.S. or international

movement expenses from the gross unit price. Moreover, the petitioner did not adjust EP for foreign inland freight expenses. The petitioner explained that it is not aware of any differences in such expenses between U.S. sales and the third country sales used for normal value (NV). No other deductions to the starting price were made to calculate EP.

Normal Value

Price-to-Price Comparisons

The petitioner claims that there was not a viable home market for IQF red raspberries in Chile. Therefore, the petitioner identified the largest third-country market for each of the Chilean producers used in the margin calculations.

The per-unit prices from the Chilean export statistics for each third-country market are stated on an FOB, Chilean-port basis. Therefore, the petitioner did not subtract any third-country or international movement expenses from the gross unit price. The petitioner did not adjust NV for foreign inland freight expenses or make any circumstance of sale adjustments, other than commission expenses for one exporter. The petitioner explained that it is not aware of any differences in such expenses between the third country sales used for NV and U.S. sales. For Arvalan S.A., the petitioner made a circumstance of sale adjustment to NV for commissions paid in both the U.S. and comparison markets. Also, the petitioner did not adjust for differences in packing, stating that exports to the United States and third countries are packed in the same way for the six exporters used in the petition's margin calculations.

Based on information submitted in a supplement to the petition, we also have calculated a company-specific margin for a seventh exporter. For further discussion, see the *Initiation Checklist.*

Based on price-to-price comparisons, calculated in accordance with section 773(a) of the Act, the estimated dumping margins for IQF red raspberries from Chile range from 0 to 10.32 percent.

Price-to-CV Comparisons

The petitioner also provided information demonstrating reasonable grounds to believe or suspect that sales of IQF red raspberries from Chile in the United Kingdom, Netherlands, France and Belgium were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct country-wide sales-below-cost investigations of such sales.

Pursuant to section 773(b)(3) of the Act, COP consists of COM; selling, general and administrative expenses; and packing. The petitioner calculated COP by adding the cost of the acquisition of the red raspberries to the cost of processing these berries into IQF red raspberries. The petitioner derived the cost of the berries from a 1999 Chilean government estimate of the cost of red raspberries during the 1999–2000 growing season and the ratio of processing costs to berry acquisition cost from a 1991 estimate from an agricultural periodical. To support the petitioner's contention that the 1991 estimate is representative of POI processing costs, a supplement to the petition provides COP information, including processing costs, from the seventh Chilean producer of the subject merchandise for a period substantially closer in time to the POI. Because processing costs in this supplement are substantially similar to the 1991 estimate, they support the 1991 information as a basis for calculating COP for the other six exporters, while also providing company-specific processing costs for the seventh exporter (see June 20, 2001 Memorandum from Susan Kuhbach to Richard Moreland). Accordingly, we have used this information, along with the raspberry acquisition costs for the 1999–2000 growing season, as the basis for initiating COP investigations.

Based upon a comparison of the prices of the foreign like product in the comparison markets to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product in the United Kingdom, Netherlands, France and Belgium were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating country-wide cost investigations for the United Kingdom, Netherlands, France and Belgium. However, if information collected during the investigation indicates that any exporter's home market is viable or the appropriate comparison market is not the United Kingdom, Netherlands, France or Belgium, a new cost allegation for that exporter or country will be required.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioner also based NV for sales in the comparison markets on CV. The petitioner calculated CV starting with the same COP figure used to compute comparison market costs. Consistent with section 773(e)(2) of the Act, the petitioner also included in CV an amount for profit. For profit, the petitioner relied upon a publicly-available amount reported for the Chilean frozen red raspberry industry. For further discussion, see the *Initiation Checklist.*

Based upon the comparison of CV to EP, after adjustments by the Department, the petitioner calculated estimated dumping margins ranging from 2.73 to 61.27 percent.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of IQF red raspberries are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise. The petitioner contends that the industry's injured condition is evident in the declining trends in net operating income, net sales volume and value, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales data, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence, and meet the statutory requirements for initiation (*see Initiation Checklist*).

Initiation of Antidumping Investigation

Based upon our examination of the petition on IQF red raspberries, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of IQF red raspberries from Chile are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of Chile. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine, no later than July 16, 2001, whether there is a reasonable indication that imports of IQF red raspberries from Chile are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–16298 Filed 6–27–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–805]

Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and partial rescission of antidumping duty administrative review

SUMMARY: In response to a request by the petitioners and two producers/exporters of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain pasta (pasta) from Turkey for the period July 1, 1999 through June 30, 2000.

We preliminarily determine that during the POR, Filiz Gida Sanayi ve Ticaret A.S. (Filiz) and Pastavilla Makarnacilik Sanayi ve Ticaret A.S. (Pastavilla) sold subject merchandise at less than normal value (NV). If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this proceeding should also submit with them: (1) A statement of the issues; (2) a brief summary of their comments; and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

EFFECTIVE DATE: June 28, 2001.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Lyman Armstrong, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3965 or (202) 482–3601, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department regulations refer to the regulations codified at 19 CFR part 351 (2000).

Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Turkey (61 FR 38545). On July 20, 2000, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order, for the period July 1, 1999, through June 30, 2000 (65 FR 45035).

From July 20 to July 31, 2000, we received requests for review from Borden Foods Corporation (Borden), which is an affiliate of Borden Inc., a petitioner [1] in the case, from New World Pasta [2], and from individual Turkish exporters/producers of pasta, in accordance with 19 CFR 351.213(b)(2). In all, requests were made to review four Turkish companies. On September 6, 2000, we published the notice of initiation of this antidumping duty administrative review covering the period July 1, 1999 through June 30, 2000, for Filiz, Pastavilla, Beslen Makarna Gida Sanayi ve Ticaret A.S. and its affiliate, Beslen Pazarlarma Gida Sanayi ve Ticaret A.S. (collectively Beslen), and Maktas Makarnacilik ve Ticaret A.S. (Maktas). See Notice of Initiation, 65 FR 53980 (September 6, 2000).

On September 6, 2000, Borden withdrew its request for certain companies enumerated in its original letter. Of the four companies named in the *Initiation Notice,* we are rescinding a review of one company, Maktas, because Borden withdrew its request and there was no request from any other interested party. *See* Memorandum from Melissa G. Skinner to Bernard Carreau, ''Partial Rescission of Antidumping Duty Administrative Review'' dated June 21, 2001 (Partial Rescission Memo) and the *Partial Recission* section below.

On September 13, 2000, we sent questionnaires to the remaining three companies for which we initiated the review: (1) Filiz; (2) Pastavilla; and (3) Beslen.

For Pastavilla and Filiz, the Department disregarded sales that failed the cost test during the most recently completed segment of the proceeding in which these companies participated. Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of NV in this review were made at prices below the cost of production (COP). Therefore, we initiated cost investigations on Pastavilla and Filiz at the time we initiated the antidumping review.

On September 21, 2000, Filiz stated that it had no U.S. entries or sales during the POR prior to January 1, 2000, and therefore requested that, for purposes of reporting home market sales and cost data, the POR be shortened to the six-month period from January 1 through June 30, 2000. Accordingly, on October 5, 2000, we informed Filiz that it could limit its reporting of home market data to the period January 1 through June 30, 2000. In that letter we also advised Filiz that if it elected to limit its reporting of home market cost data to the six-month period, in the sales-below-cost investigation, it would forego the application of the ''recovery of cost'' test pursuant to section 773(b)(2)(D) of the Act.

Filiz and Pastavilla submitted their section A questionnaire responses on October 4, 2000, and sections B through D on November 3, 2000.

The Department issued supplemental sections A through C questionnaires to

[1] The petitioners are Borden Inc., Hershey Foods Corp. (Hershey Pasta), Grocery Corp Inc., and Gooch Foods, Inc. (effective January 1, 1999, Hershey Pasta and Grocery Corp. Inc. became New World Pasta, Inc.).

[2] *See* letter from Collier Shannon Scott dated July 31, 2000, submitted on behalf of Borden and New World Pasta, on file in room B–099 of the Department's main building. On September 7, 2000, Collier Shannon Scott submitted a letter stating that its July 31, 2000 letter should have been on behalf of New World Pasta alone, because Borden had submitted its own letter.

Pastavilla and Filiz on November 16, and November 28, 2000, respectively. Pastavilla submitted its response to our supplemental questionnaire on November 30, 2000. We received Filiz's response to our supplemental questionnaire on December 18, 2000.

The Department issued supplemental section D questionnaires to Pastavilla and Filiz on January 25, 2001. We received responses from both parties on February 8, 2001.

On January 30, 2001, the Department published a notice postponing the preliminary results of this review until June 21, 2001 (66 FR 8198).

The Department issued a second supplemental sections A through D questionnaire to Filiz on March 26, 2001. We received Filiz's response to our supplemental questionnaire on April 19, 2001.

We verified the sales information submitted by Pastavilla from April 23–27, 2001.

Partial Rescission of Antidumping Duty Administrative Review

On September 6, 2000, Borden withdrew its request for a review of Maktas. Because there were no other requests for review for Maktas, and because Borden's letter withdrawing its request was timely filed, we are rescinding the review with respect to Maktas in accordance with 19 CFR 351.213(d)(1).

On October 3, 2000, Beslen submitted a letter stating that it had no shipments of scope merchandise during the POR. We verified this through data from the U.S. Customs Service. In accordance with 19 CFR 351.213(d)(3), we are preliminary rescinding our review of Beslen since it made no sales or shipments of subject merchandise during the review period.

Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the *HTSUS* subheading is provided for convenience and Customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

The Department has issued the following scope ruling to date:

(1) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999 we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See* ''Memorandum from John Brinkmann to Richard Moreland,'' dated May 24, 1999, in the case file in the Central Records Unit, main Commerce building, room B–099 (the CRU).

Verification

As provided in section 782(i) of the Act, we verified sales information provided by Pastavilla. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and examination of relevant sales and financial records. Our verification results are outlined in a verification report placed in the case file in the CRU. We revised certain sales and cost data based on verification findings. *See* the company-specific verification report and calculation memorandum.

Product Comparisons

In accordance with section 771(16) of the Act, the Department first attempted to match contemporaneous sales of products sold in the U.S. and comparison markets that were identical with respect to the following characteristics: (1) Pasta shape; (2) type of wheat; (3) additives; and (4) enrichment. Where there were no sales of identical merchandise in the home market to compare with U.S. sales, we compared U.S. sales with the most similar product based on the characteristics listed above, in descending order of priority.

For purposes of the preliminary results, where appropriate, we have calculated the adjustment for differences in merchandise based on the difference in the variable cost of manufacturing between each U.S. model and the most similar home market model selected for comparison.

Comparisons to Normal Value

To determine whether sales of certain pasta from Turkey were made in the United States at less than fair value, we compared the export price (EP) to the normal value (NV), as described in the *Export Price* and *Normal Value* sections of this notice. Because Turkey's economy experienced high inflation during the POR (over 60 percent), as is Department practice, we limited our comparisons to home market sales made during the same month in which the U.S. sale occurred and did not apply our 90/60 contemporaneity rule. *See, e.g.,* Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey, 63 FR 68429, 68430 (December 11, 1998) and Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review, 62 FR 42496, 42503 (August 7, 1997). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and home market sales.

Export Price

For the price to the United States, we used EP in accordance with section 772(a) of the Act because the merchandise was sold by the producer or exporter outside the United States to the first unaffiliated purchaser in the United States prior to importation and constructed export price was not otherwise warranted based on the facts on the record. We based EP on the packed C&F and FOB prices to the first unaffiliated customer in the United States.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, insurance, foreign brokerage handling and loading charges, and international freight. In addition, we increased the EP by the amount of the countervailing duties paid that were attributable to an export subsidy, in accordance with section 772(c)(1)(C).

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the

home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act, because each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for both producers.

B. Arm's Length Test

Sales to affiliated customers for consumption in the home market which were determined not to be at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the prices of sales of comparison products to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, rebates, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, where the prices to the affiliated party were on average less than 99.5 percent of the prices to unaffiliated parties, we determined that the sales made to the affiliated party were not at arm's length. *See, e.g.,* Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan, 62 FR 60472, 60478 (November 10, 1997), and Antidumping Duties; Countervailing Duties: Final Rule (Antidumping Duties), 62 FR 27295, 27355–56 (May 19, 1997). We included in our NV calculations those sales to affiliated customers that passed the arm's-length test in our analysis. *See* 19 CFR 351.403; Antidumping Duties, 62 FR at 27355–56.

C. Cost of Production Analysis

1. Calculation of COP

Before making any comparisons to NV, we conducted a COP analysis, pursuant to section 773(b) of the Act, to determine whether each respondent's comparison market sales were made below the COP. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A) and packing, in accordance with section 773(b)(3) of the Act. We relied on the respondents' information as submitted, except in instances where we used revised data based on verification findings. *See* the company-specific calculation memoranda on file in the CRU, for a description of any changes that we made.

As noted above, we determined that the Turkish economy experienced high inflation during the POR. Therefore, to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that each respondent submit the product-specific cost of manufacturing (COM) incurred during each month of the period for which it reported home market sales. We then calculated an average COM for each product after indexing the reported monthly costs to an equivalent currency level using the Turkish wholesale price index from the International Financial Statistics published by the International Monetary Fund (IMF). We then restated the average COM in the currency value of each respective month. Because Filiz limited its reporting of home market sales to a six-month period we requested that it submit product-specific COM incurred during each month of the six-month period and made our calculations on that basis.

2. Test of Comparison Market Prices

As required under section 773(b) of the Act, for Pastavilla and Filiz, we compared the weighted-average COP to the weighted-average per unit price of the comparison market sales of the foreign like product, to determine whether their respective sales had been made at prices below the COP within an extended period of time in substantial quantities. Since Filiz limited its reporting of home market cost data to a six-month period, we did not conduct an analysis to determine whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. For each respondent, we determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses (also subtracted from the COP), and packing expenses. We added interest revenue.

3. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of Pastavilla's sales of a given product during the twelve-month period were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) and (C) of the Act. In such cases, because we compared prices to POR-average costs (indexed for inflation), we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. For Filiz, where 20 percent or more of the sales of a given product during its six-month period were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time. Because of the limited six-month reporting period used by Filiz, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, for both companies we disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-works, FOB or delivered prices to comparison market customers. We made deductions from the starting price for inland freight, inland insurance, discounts, and rebates. In accordance with sections 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs and deducted comparison market packing costs, respectively. In addition, we made circumstance of sale adjustments for direct expenses, including imputed credit, advertising, promotions, billing adjustments, and warranties, in accordance with section 773(a)(6)(C)(iii) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Pursuant to § 351.411 of the Department's regulations, we based this adjustment on the difference in the variable COM for the foreign like product and subject merchandise, using twelve-month average costs (six-month average costs for Filiz), as adjusted for inflation for each month of the twelve-month period (six-month period for Filiz), as described in the *Cost of Production Analysis* section above.

E. Level of Trade (LOT)

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison

market at the same LOT as the U.S. EP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT.

Pursuant to § 351.412 of the Department's regulations, to determine whether comparison market sales were at a different LOT, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales were at a different LOT and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we made a LOT adjustment under section 773(a)(7)(A) of the Act.

Filiz had no home market sales at the same LOT. Consequently, we could not match EP sales to sales at the same LOT in the home market. Nor could we determine a LOT adjustment. Therefore, we made no LOT adjustment.

For Pastavilla, all EP sales were compared to home market sales at the same LOT. Therefore, no LOT adjustment was necessary.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, *see* the June 21, 2001, ''99/00 Administrative Review of Pasta from Italy and Turkey: Level of Trade Findings Memorandum'' on file in the CRU.

Intent Not To Revoke

On July 24 2000, Pastavilla submitted a letter to the Department requesting, pursuant to 19 CFR 351.222(b), revocation of the antidumping duty order with respect to its sales of the subject merchandise.

The Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia,* that one or more exporters and producers covered by the order submit the following: (1) A certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and (3) an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, has sold subject merchandise at less than normal value. *See* 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department will consider the following in determining whether to revoke the order in part: (1) Whether the producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether continued application of the AD order is otherwise necessary to offset dumping; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to the immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV. *See* 19 CFR. 351.222(b)(2).

In its July 24, 2000 request for revocation in part, Pastavilla submitted the required certifications and agreement. Based on the preliminary results in this review and the final results of the two preceding reviews, Pastavilla has not had zero or *de minimis* dumping margins for three consecutive reviews.

Because the requirements under the regulation have not been satisfied, if these preliminary findings are affirmed in our final results, we do not intend to revoke the antidumping duty order with respect to merchandise produced and exported by Pastavilla.

Currency Conversion

Because this proceeding involves a high-inflation economy, we limited our comparison of U.S. and home market sales to those occurring in the same month (as described above) and only used daily exchange rates. See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey, 63 FR 68429 (December 11, 1998).

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Service, as published in the Wall Street Journal.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted-average margins exist for the period July 1, 1999 through June 30, 2000:

Manufacturer/exporter	Margin (percent)
Filiz	3.59
Pastavilla	1.90

The Department will disclose the calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent) the Department will issue appraisement instructions directly to the U.S. Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. Where appropriate, in order to calculate the entered value, we

subtracted international movement expenses (*e.g.,* international freight) from the gross sales value.

Cash Deposit Requirements

To calculate the cash-deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review; (2) for previously reviewed or investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 51.49 percent, the ''All Others'' rate established in the LTFV investigation. See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey, 61 FR 38546 (July 24, 1996).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–16299 Filed 6–27–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent To Revoke Antidumping Duty Order in Part: Certain Pasta From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and partial rescission of antidumping duty administrative review and intent to revoke the antidumping duty order in part.

SUMMARY: In response to requests by interested parties, the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain pasta (''pasta'') from Italy for the period July 1, 1999 through June 30, 2000.

We preliminarily determine that during the POR, (1) Barilla G.e.R. F.lli S.p.A. (''Barilla''), (2) Delverde S.p.A. and its affiliate, Tamma Industrie Alimentari di Capitanata, S.r.L. (collectively, ''Delverde''), (3) Pastificio Guido Ferrara S.r.l. (''Ferrara''), (4) Pastificio Antonio Pallante S.r.l. and its affiliate Industrie Alimentari Molisane S.r.l. (collectively, ''Pallante''), (5) P.A.M., S.r.l. and its affiliate Liguori (collectively, ''PAM''), and (6) Pastificio Riscossa F.lli Mastromauro S.r.l. (''Riscossa'') sold subject merchandise at less than normal value (''NV''). If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between the export price (''EP'') or constructed export price (''CEP'') and NV.

We preliminarily determine that during the POR, (1) Commercio-Rappresentanze-Export S.p.A. (''Corex''), (2) Pastificio F.lli Pagani S.p.A. (''Pagani''), (3) N. Puglisi & F. Industria Paste Alimentari S.p.A. (''Puglisi''), and (4) Rummo S.p.A. Molino e Pastificio (''Rummo'') did not make sales of the subject merchandise at less than NV (*i.e.,* made sales at ''zero'' or de minimis dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to liquidate appropriate entries without regard to antidumping duties. Also, if these preliminary results are adopted in our final results of this administrative review, we intend to revoke the antidumping duty order with respect to Puglisi and Corex, based on three years of sales at not less than NV. See ''*Intent to Revoke*'' section of this notice.

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this proceeding should also submit with them: (1) A statement of the issues; (2) a brief summary of the comments; and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

EFFECTIVE DATE: July 28, 2001.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Geoffrey Craig, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3965 or (202) 482–4161, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department regulations refer to the regulations codified at 19 CFR part 351 (2000).

Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Italy (61 FR 38547). On July 20, 2000, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order, for the period July 1, 1999 through June 30, 2000 (65 FR 45035).

From July 13 to July 31, 2000, we received requests for review from the Borden Foods Corporation (''Borden''), which is an affiliate of Borden Inc., a petitioner [1] in the case, from New World

[1] The petitioners are Borden Inc., Hershey Foods Corp. (''Hershey Pasta''), Grocery Corp. Inc., and

Pasta,[2] and from individual Italian exporters/producers of pasta, in accordance with 19 CFR 351.213(b)(2). There were requests made for 31 Italian companies. On September 6, 2000, we published the notice of initiation of this antidumping duty administrative review covering the period July 1, 1999 through June 30, 2000 and listed 30 companies. *Notice of Initiation,* 65 FR 53980 (September 6, 2000). Although Borden requested a review of De Matteis Agroalimentare S.p.A. (''De Matteis''), we did not initiate a review of De Matteis because it received a de minimis margin in the less-than-fair-value (''LTFV'') investigation and, thus, is excluded from the order.

On September 6, 2000 and September 7, 2000, respectively, Borden and New World Pasta withdrew their request for certain companies enumerated in their original letters. Of the 30 companies [3] named in the *Initiation Notice,* we are rescinding a review of 14 companies because petitioners withdrew their request and there was no request from any other interested party. *See* Memorandum from Melissa G. Skinner to Bernard Carreau, ''Partial Rescission of Antidumping Duty Administrative Review'' dated June 21, 2001 (''Partial Rescission Memo'') and the *Partial Recission* section below.

On September 13, 2000, we sent questionnaires to the remaining companies that we initiated a review of: (1) Arrighi S.p.A. Industrie Alimentari (''Arrighi''); (2) Barilla; (3) Corex; (4) Delverde; (5) Di Martino Gaetano E. F.lli S.r.l. (''Di Martino''); (6) Ferrara; (7) La Molisana Industrie Alimentari S.p.A. (''La Molisana''); (8) Puglisi; (9) Pallante; (10) Pagani; (11) Riscossa; (12) PAM; and (13) Rummo.

During the most recently completed segment in which each of the following companies participated, the Department disregarded sales that failed the cost test: Corex, Delverde, La Molisana, Puglisi, Pallante, PAM and Rummo.[4] Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of NV in this review were made at prices below the cost of production (''COP''). Therefore, we initiated cost investigations on these companies.

In the first administrative review, which was the most recently completed segment of the proceeding involving Arrighi and Pagani, the Department initiated cost investigations of Arrighi and Pagani. However, we were unable to complete those investigations because we had to base the final determination on facts otherwise available. The use of facts otherwise available precluded the Department from determining whether, in fact, sales below the cost of production would be disregarded from the home market sales response in that proceeding. Nonetheless, pursuant to section 773(b)(2)(A)(ii) of the Act, we initiated cost investigations on Arrighi and Pagani at the time we initiated this antidumping review based on the fact that we initiated COP investigations for these companies in the most recently completed review involving these companies and presumably would have disregarded sales that failed the cost test but for having to base their margins on total facts available.

However, we are preliminarily rescinding the review with respect to Arrighi because it submitted a letter stating that it had no shipments of subject merchandise during the POR. As discussed in the *Partial Recission* section below, using customs data, we verified that Arrighi did not have shipments of subject merchandise during the POR.

Also, on September 27, 2000 and October 18, 2000, respectively, La Molisana and Di Martino withdrew their requests for a review. Thus, as also discussed in the Partial Recission section below, we are rescinding the review for La Molisana and Di Martino because they withdrew their requests in a timely manner and there was no other request by an interested party to review La Molisana or Di Martino.

We also received a letter from Barilla stating that it did not intend to respond to the Department's questionnaire. See ''*Facts Available*'' section of this notice.

After several extensions, the remaining respondents submitted their responses to sections A through C of the questionnaire by November 15, 2000, and section D responses by January 16, 2001, except Riscossa and Ferrara who were not required to respond to section D.

From October 2000 to April 2001, the Department issued supplemental and second supplemental section A through C questionnaires to the responding companies. From November 2000 to March 2001, supplemental and second supplemental section D questionnaires were issued to all relevant companies.

We verified the sales information submitted by Corex from February 12–16, 2001; Riscossa from February 26-March 2, 2001; Pallante from March 12–23, 2001; Ferrara from March 26–29, 2001; and Puglisi from April 30-May 4, 2001. We verified the cost information submitted by Corex from February 19–23, 2001; Pallante from March 12–23, 2001; and Puglisi from May 7–11, 2001.

On January 30, 2001, the Department published a notice postponing the preliminary results of this review until June 21, 2000 (66 FR 8198).

Partial Rescission

We initiated a review of 30 companies. However, this list included companies known to be affiliated. After accounting for known affiliated parties,[5] there are 27 companies in the *Initiation Notice*. On September 6, 2000, we received a revised letter from Borden shortening its list to five companies for the Department to review. New World Pasta submitted a letter withdrawing its request for the Department to review any companies. In its September 6, 2000 letter, Borden included Arrighi as a company that it wanted the Department to review. On October 4, 2000, Arrighi submitted a letter stating that it had no shipments of subject merchandise during the period of review. We verified this information through customs data. In accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the review in part as to Arrighi because it made no sales or shipments of subject merchandise during the review period.

Gooch Foods, Inc. (effective January 1, 1999, Hershey Pasta and Grocery Corp. Inc. became New World Pasta, Inc.).

[2] *See* letter from Collier Shannon Scott dated July 31, 2000, submitted on behalf of Borden and New World Pasta, on file in room B–099 of the Department's main building. This letter was written on behalf of Borden and New World Pasta. However, on September 7, 2000, Collier Shannon Scott submitted a letter stating that its July 31, 2000 letter should have been on behalf of New World Pasta alone, because Borden submitted its own letter.

[3] This list included companies known to be affiliated. After accounting for known affiliated parties, there are 27 companies in the *Initiation Notice.*

[4] The third administrative review was the most recently completed review for Corex, La Molisana, Puglisi, Pallante, and PAM. *See Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review,* 65 FR 77852 (December 13, 2000). The most recently completed review that Rummo participated in was the second administrative review. *See Notice of Final Results of Antidumping Duty Administrative Review: Certain Pasta From Italy,* 65 FR 7349 (February 14, 2000). The LTFV investigation was the most recent segment of the proceeding in which Delverde participated. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy,* 61 FR 30326 (June 14, 1996).

[5] Delverde S.r.l. has an affiliate, Tamma Industrie Alinmentari di Capitanata, SrL. Pastificio Antonio Pallante S.r.l. is affiliated with Industrie Alimentari Molisane S.r.l and P.A.M., S.r.l. has an affiliate, Liguori. Each of these pairs of affiliates was treated as a single entity in the prior segments of this proceeding.

There were eight companies that self-requested a review. On September 27, 2000 and October 18, 2000, respectively, La Molisana and Di Martino withdrew their requests for a review. Because there were no other requests for review of Di Martino and La Molisana and because the letters withdrawing the requests were timely filed, we are rescinding the review with respect to Di Martino and La Molisana in accordance with 19 CFR 351.213(d)(1).

We are rescinding the review, in accordance with 19 CFR 351.213(d)(1), with respect to the remaining 14 companies for which petitioners withdrew their request and the producer did not self-request a review. See the ''Partial Rescission Memo'' which lists the 14 companies that we are rescinding.

Use of Facts Available

Barilla notified the Department in an October 6, 2000 letter that it did not intend to respond to the Department's questionnaire. Section 776(a)(2) of the Act provides that if any interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information by the deadlines for submission of the information or in the form or manner requested; (C) significantly impedes an antidumping investigation; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in making its determination. Because Barilla wholly failed to respond to our questionnaire, pursuant to section 776(a)(2)(A) of the Act, we have applied facts available (''FA'') to determine its dumping margin.

Selection of Adverse FA

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See e.g.*, Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review, 62 FR 53808, 53819–20 (October 16, 1997). We find that Barilla's refusal to answer the questionnaire in whole or part and its failure to offer alternative methods of compliance constitutes a failure to act to the best of its ability. For this reason, and to ensure that Barilla does not benefit from that lack of cooperation, we are employing an adverse inference in selecting from facts otherwise available.

In assigning an adverse facts available rate in an administrative review, the Department's practice is to use the highest rate given to any respondent in any segment of the proceeding. *See e.g.*, Final Results of Antidumping Duty Administrative Review: Brass Sheet and Strip from Germany, 64 FR 43342 (August 10, 1999). In the first administrative review, we based the antidumping duty rate for Arrighi, Barilla, and Pagani on the highest margin from the petition, as adjusted by the Department, 71.49 percent. *See* Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy, 64 FR 6615 (February 10, 1999).

Pagani did not contest the 71.49 percent rate. However, Barilla and World Finer Foods, Inc. (an importer of Arrighi pasta) sued the Department on the basis that the adverse facts available rate selected by the Department was not properly corroborated. The Court of International Trade (''CIT'') ruled that the Department must determine an appropriate facts available rate for Arrighi and assess Barilla a dumping margin that, while adverse, ''bears a rational relationship to the probability of dumping.'' *See World Finer Foods* v. *the United States*, Slip Op. 00–72 (CIT June 26, 2000) at 26–27.

On September 15, 2000, we filed with the Court the final results of redetermination pursuant to the CIT's remand order. We assigned Arrighi a rate of 19.09 percent (net of export subsidies) which was the rate we calculated for Arrighi in the prior segment of the proceeding, the LTFV investigation. We based the adverse facts available margin for Barilla on secondary price information in the petition and U.S. Customs import statistics. Normal value was derived using a Barilla price list contained in the petition with an effective date of January 1, 1995. With respect to U.S. price, we reviewed U.S. Customs import statistics from the first administrative period of review and were able to identify an average unit value (''AUV'') specifically for Barilla. We calculated a margin for every product on the price list and found margins ranging from 39.63 to 63.63 percent with a simple average of 45.59 percent. We applied the 63.63 percent margin to Barilla.

On November 3, 2000, the CIT affirmed the final revised remand determination in *World Finer Foods, Inc.* v. *United States*, 120 F. Supp.2d 1131 (November 3, 2000). With respect to Barilla, the CIT found that ''the only margin that is available that is supported by the evidence is the margin of 45.59 percent, Commerce's best guess, which, based on this record, is adverse.'' Barilla did not appeal the CIT decision. *See* Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Pasta From Italy, 66 FR 20636 (April 24, 2001).

After the litigation relating to the first administrative review, the highest rate given to a respondent is the 71.49 percent rate assigned to Pagani. The court did not address the appropriateness of this rate for Pagani because Pagani did not challenge the Department after the final results. The only other company to receive a facts available rate was De Cecco in the LTFV investigation. For De Cecco, we chose a simple average of the margins calculated in the petition, which ranged from 21.85 percent to 71.49 percent, as adjusted by the Department: 46.67 percent. *See* Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Pasta from Italy, 61 FR 1344, 1345 (January 19, 1996). De Cecco filed suit and the Court of Appeals for the Federal Circuit (''CAFC'') affirmed the CIT's rejection of the 46.67 percent rate as ''discredited and uncorroborated'' on the record of the LTFV investigation. *See F.lli De Cecco Di Filippo Fara S. Martino S.p.A.* v. *the United States*, 216 F. Supp.3d 1027, 1032–33 (CAFC June 16, 2000).

Although we prefer to use the highest rate given to a company in the course of the proceeding as the basis for an adverse facts available rate, we are cognizant of the legal history of this case and the court's rejection of the 71.49 percent rate with respect to Arrighi and Barilla and the 46.67 percent rate with respect to De Cecco. The 45.59 percent rate assigned to Barilla from the remand of the first administrative review is the highest rate ever upheld by the court. In considering the appropriateness of the 45.59 percent rate as an adverse facts available rate for Barilla in the current administrative review, we must consider whether the rate has probative value, *i.e.* is relevant and reliable. The rate is reliable because it is based on Barilla's own price lists and the actual average import prices. It is based on a home market price list (effective January 1995) which was compared to U.S. import prices during the first administrative period of review (July 1996 through June 1997).

We are mindful that the 45.59 percent rate is based upon data from the LTFV investigation and the first administrative review. However, there is no evidence on the record that is more contemporaneous since Barilla did not

participate in the second or third administrative reviews of this order and did not provide the Department with any information related to the current review. Further, we do not consider data from the LTFV investigation and first administrative review to be so outdated as to warrant rejecting said data since only three years have passed between the LTFV investigation and this review. Moreover, in the current review, we have found individual sales transactions of other respondents at or above 45.59 percent. Thus, it is reasonable to conclude that the 45.59 percent rate is still relevant to Barilla's current level of dumping.

Next, we consider whether the 45.59 percent rate is appropriately adverse. Inasmuch as we found the 45.59 percent rate to be adverse in our remand determination, and the CIT upheld this determination, and there is no new information that would lead us to conclude this rate is not adverse in this review, we find the 45.59 percent rate to still be an appropriately adverse rate. Thus, we are assigning Barilla an adverse facts available rate of 45.59 percent.

Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, or by Associazione Italiana per l'Agricoltura Biologica.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (''*HTSUS*''). Although the *HTSUS* subheading is provided for convenience and Customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. *See* Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, in the case file in the Central Records Unit, main Commerce building, room B–099 (''the CRU'').

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. *See* Letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., dated July 30, 1998, which is available in the CRU.

(3) On October 23, 1997, the petitioners filed an application requesting that the Department initiate an anti-circumvention investigation of Barilla, an Italian producer and exporter of pasta. The Department initiated the investigation on December 8, 1997 (62 FR 65673). On October 5, 1998, the Department issued its final determination that Barilla's importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention, with respect to the antidumping duty order on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). *See* Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 63 FR 54672 (October 13, 1998).

(4) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999 we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See* Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, which is available in the CRU. The following scope ruling is pending:

(1) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pagani's importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention, with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). *See* Certain Pasta from Italy: Notice of Initiation of Anti-circumvention Inquiry of the Antidumping and Countervailing Duty Orders, 65 FR 26179 (May 5, 2000).

Verification

As provided in section 782(i) of the Act, we verified sales and cost information provided by Corex, Pallante, and Puglisi, and the sales information provided by Ferrara and Riscossa. We used standard verification procedures, including on-site inspection of the manufacturers' facilities and examination of relevant sales and financial records. Our verification results are outlined in the company-specific verification reports placed in the case file in the CRU. We revised certain sales and cost data based on verification findings. *See* the company-specific verification report and calculation memorandum.

Product Comparisons

In accordance with section 771(16) of the Act, we first attempted to match contemporaneous sales of products sold in the United States and comparison markets that were identical with respect to the following characteristics: (1) Pasta shape; (2) type of wheat; (3) additives; and (4) enrichment. Where there were no sales of identical merchandise in the home market to compare with U.S. sales, we compared U.S. sales with the most similar product based on the characteristics listed above, in descending order of priority. Where there were no appropriate comparison market sales of comparable merchandise, we compared the merchandise sold in the United States to CV, in accordance with section 773(a)(4) of the Act.

For purposes of the preliminary results, where appropriate, we have calculated the adjustment for differences in merchandise based on the difference in the variable cost of manufacturing between each U.S. model and the most similar home market model selected for comparison.

Comparisons to Normal Value

To determine whether sales of certain pasta from Italy were made in the United States at less than normal value, we compared the EP or CEP to the NV, as described in the ''*Export Price and Constructed Export Price*'' and ''*Normal Value*'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP where the merchandise was sold by the producer or exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts on the record. We calculated CEP where sales to the first unaffiliated purchaser took place in the United States. We based EP and CEP on the packed CIF, ex-factory, FOB, or delivered prices to the first unaffiliated customer in, or for exportation to, the United States. Where appropriate, we reduced these prices to reflect discounts and rebates.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, foreign brokerage, handling and loading charges, export duties, international freight, marine insurance, U.S. duties, and U.S. inland freight expenses (freight from port to the customer). In addition, where appropriate, we increased EP or CEP as applicable, by an amount equal to the countervailing duty rate attributed to export subsidies in the most recently completed administrative review, in accordance with section 772(c)(1)(C).

For CEP, in accordance with section 772(d)(1) of the Act, where appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (advertising, cost of credit, warranties, and commissions paid to unaffiliated sales agents). In addition, we deducted indirect selling expenses that related to economic activity in the United States. These expenses include certain indirect selling expenses incurred by affiliated U.S. distributors. We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f) of the Act.

Certain respondents reported the resale of subject merchandise purchased in Italy from unaffiliated producers. Where an unaffiliated producer of the subject pasta knew at the time of the sale that the merchandise was destined for the United States, the relevant basis for the export price would be the price between that producer and the respondent. See Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review and Notice of Determination Not to Revoke Order, 63 FR 50867, 50876 (September 23, 1998). In this review, we determined that it was reasonable to assume that the unaffiliated producers knew or had reason to know at the time of sale that the ultimate destination of the merchandise was the United States because virtually all enriched pasta is sold to the United States. See Notice of Preliminary Results and Partial Recission of Antidumping Duty Administrative Review and Intent to Revoke Antidumping Duty Order in Part: Certain Pasta from Italy, 65 FR 4867, 4869 (August 8, 2000). Accordingly, consistent with our methodology in prior reviews (*see id.*), when respondents purchased pasta from other producers and we were able to identify resales of this merchandise to the United States, we excluded these sales of the purchased pasta from the margin calculation for that respondent. Where the purchased pasta was commingled with the respondent's production and the respondent could not identify the resales, we examined both sales of produced pasta and resales of purchased pasta. Inasmuch as the percentage of pasta purchased by any single respondent was an insignificant part of its U.S. sales database, we included the sales of commingled purchased pasta in our margin calculations.

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because, with the exception of Corex, each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for all producers, except Corex.

Corex reported that it made no home market sales during the POR. Therefore, in accordance with section 773(a)(1)(B)(ii) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the respondent's largest third-country market, Australia, which had an aggregate sales quantity greater than five percent of the aggregate quantity sold in the United States.

B. Arm's Length Test

Sales to affiliated customers for consumption in the home market which were determined not to be at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the prices of sales of comparison products to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, where the prices to the affiliated party were on average less than 99.5 percent of the prices to unaffiliated parties, we determined that the sales made to the affiliated party were not at arm's length. *See e.g.,* Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan, 62 FR 60472, 60478 (November 10, 1997), and *Antidumping Duties;* Countervailing Duties: Final Rule (''Antidumping Duties''), 62 FR 27295, 27355–56 (May 19, 1997). We included in our NV calculations those sales to affiliated customers that passed the arm's-length test in our analysis. *See* 19 CFR 351.403; Antidumping Duties, 62 FR at 27355–56.

C. Cost of Production Analysis

1. Calculation of COP

Before making any comparisons to NV, we conducted a COP analysis of Corex, Delverde, PAM, Pallante, Pagani, Puglisi, and Rummo, pursuant to section 773(b) of the Act, to determine whether the respondents' comparison market sales were made below the COP. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (''SG&A'') and packing, in accordance with section 773(b)(3) of the Act. We relied on the respondents' information as submitted, except in instances where we used

revised data based on verification findings. *See* the company-specific calculation memoranda on file in the CRU, for a description of any changes that we made.

2. Startup Adjustment

PAM claimed a start-up adjustment for its new pasta production line at the D'Apuzzo facility. Construction of the new line began on April 30, 2000 and the new line was ready for commercial production on August 23, 2000. During this period, the existing lines were periodically shut down because the new production line was installed in close proximity to the rest of the facility. PAM claims a startup adjustment equal to the amount of the fixed overhead which can be attributed to the period of time that the D'Apuzzo facility was closed during the POR for installation of the new production lines.

We are not allowing a startup adjustment in this case. Specifically, section 773(f)(1)(C)(ii) of the Act states that the Department will make an adjustment for startup costs where the following two conditions are met: (1) A producer is using new production facilities or producing a new product that requires substantial additional investment, and (2) the production levels are limited by technical factors associated with the initial phase of commercial production.

We have examined PAM's claim and determined that the criteria for granting a startup adjustment have not been satisfied in this case. The construction of a new pasta production line does not constitute a ''new facility,'' nor is PAM producing a ''new product'' that required substantial additional investment, within the meaning of section 773(f)(1)(C)(ii)(I) of the Act. Rather, the addition of a new production line within an already existing facility is a ''mere improvement'' that the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316, Vol. I, (1994) at 835 (''SAA'') states will not qualify for a startup adjustment. Moreover, PAM has not identified any additional costs associated with ''substantially retooling'' its existing facility, which, according to the SAA might satisfy the first criterion. *See* Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews, 63 FR 13170, 13200 (March 18, 1998) (where the Department disallowed a startup adjustment because the respondent failed to demonstrate that the production line in question constituted a ''new facility'' and manufactured a ''new product'').

Section 773(f)(1)(C)(ii) of the Act establishes that both prongs of the startup test must be met to warrant a startup adjustment; therefore, this finding is sufficient to deny PAM's claim. As a result, we have not addressed PAM's arguments concerning technical factors that limit commercial production levels. *See* Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms From Chile, 63 FR 41786, 41788 (August 5, 1998).

3. Test of Comparison Market Prices

As required under section 773(b) of the Act, we compared the weighted-average COP to the per unit price of the comparison market sales of the foreign like product, to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses (also subtracted from the COP), and packing expenses.

4. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) and (C) of the Act. In such cases, because we compared prices to POR-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. Specifically, we have disregarded below-cost sales made by Corex, Delverde, PAM, Pallante, Pagani, Puglisi, and Rummo in this administrative review.

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-works, FOB or delivered prices to comparison market customers. We made deductions from the starting price, where appropriate, for handling, loading, inland freight, warehousing, inland insurance, discounts, and rebates. In accordance with sections 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs and deducted comparison market packing, respectively. In addition, we made circumstance of sale (''COS'') adjustments for direct expenses, including imputed credit expenses, advertising, warranty expenses, commissions, bank charges, billing adjustments, and interest revenue, in accordance with section 773(a)(6)(C)(iii) of the Act.

We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the ''commission offset''). Specifically, where commissions are incurred in one market, but not in the other, we make an allowance for the indirect selling expenses in the other market up to the amount of the commissions.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 of the Department's regulations. We based this adjustment on the difference in the variable cost of manufacturing (''COM'') for the foreign like product and subject merchandise, using POR-average costs.

Sales of pasta purchased by the respondents from unaffiliated producers and resold in the comparison market were treated in the same manner described above in the ''*Export Price and Constructed Export Price*'' section of this notice.

E. Normal Value Based on CV

For Corex, where we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product above COP, we compared the EP to CV. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the cost of manufacturing of the product sold in the United States, plus amounts for SG&A expenses, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred by

Corex in connection with the production and sale of the foreign like product in the comparison market.

For price-to-CV comparisons, we made adjustments to CV for COS differences, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses.

F. Level of Trade (''LOT'')

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same LOT as the EP and CEP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT. When NV is based on CV, the NV LOT is that of the sales from which we derive SG&A expenses and profit.

Pursuant to § 351.412 of the Department's regulations, to determine whether comparison market sales were at a different LOT, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales were at a different LOT and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we made a LOT adjustment under section 773(a)(7)(A) of the Act. PAM was the only company for which we made an LOT adjustment.

Finally, if the NV LOT was more remote from the factory than the CEP LOT and there was no basis for determining whether the differences in LOT between NV and CEP affected price comparability, we granted a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See* Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732–33 (November 19, 1997). We granted a CEP offset for the following companies: Delverde; Puglisi; and Rummo.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, *see* the June 21, 2001, ''99/00 Administrative Review of Pasta from Italy and Turkey: Preliminary Determination Level of Trade Findings' memoranda on file in the CRU.

G. Company-Specific Issues

We relied on the respondents' information as submitted, except in instances where, based on verification findings, we made modifications to the calculation of normal value and EP or CEP. *See* the company-specific calculation memoranda on file in the CRU, for a description of any changes that we made.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve.

Intent To Revoke

On July 13, 2000 and July 31, 2000, Puglisi and Corex, respectively, submitted letters to the Department requesting, pursuant to 19 CFR 351.222(b), revocation of the antidumping duty order with respect to their sales of the subject merchandise.

The Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia,* that one or more exporters and producers covered by the order submit the following: (1) A certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and (3) an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, has sold subject merchandise at less than normal value. *See* 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department will consider the following in determining whether to revoke the order in part: (1) Whether the producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to the immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV. *See* 19 CFR. 351.222(b)(2).

On July 31, 2000 and September 13, 2000, respectively, Puglisi and Corex submitted the required certifications and agreements.

Based on the preliminary results in this review and the final results of the two preceding reviews, Puglisi and Corex had *de minimis* dumping margins for three consecutive reviews. Further, in determining whether three years of no dumping establish a sufficient basis to make a revocation determination, the Department must be able to determine that the company continued to participate meaningfully in the U.S. market during each of the three years at issue. *See* Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part, 64 FR 2173, 2175 (January 13, 1999); *see also* Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part, 64 FR 12977, 12979 (March 16, 1999); and Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Order: Brass Sheet and Strip from the Netherlands, 65 FR 742 (January 6, 2000). This practice has been codified in § 351.222(d)(1) of the Department's regulations, which states that, ''before revoking an order or terminating a suspended investigation, the Secretary must be satisfied that, during each of the three (or five) years, there were exports to the United States in commercial quantities of the subject merchandise to which a revocation or termination will apply.'' 19 CFR 351.222(d)(1) (emphasis added); *see also* 19 CFR 351.222(e)(1)(ii). For purposes of revocation, the Department must be able to determine that past margins are reflective of a company's normal commercial activity. Sales during the POR which, in the aggregate, are an abnormally small quantity do not provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping.

With respect to the threshold matter of whether Puglisi and Corex made sales of subject merchandise to the United States in commercial quantities, we find that Puglisi's and Corex's aggregate sales to the United States were made in

commercial quantities during all segments of this proceeding. Both the quantity and number of Puglisi's and Corex's shipments to the United States of subject merchandise have remained at sufficiently high levels to be considered commercial quantities. Therefore, we can reasonably conclude that the zero or de minimis margins calculated for Puglisi and Corex in each of the last three administrative reviews are reflective of the company's normal commercial experience. *See* Memorandum from Geoffrey Craig to File, ''Shipments of Pasta to the United States by Puglisi,'' dated June 21, 2001; and Memorandum from Cindy Robinson to File, ''Shipments of Pasta to the United States by Corex,'' dated June 21, 2001.

With respect to 19 CFR 351.222(b)(2)(ii), in considering whether continued application of the order is necessary to offset dumping, ''the Department may consider trends in prices and costs, investment, currency movements, production capacity, as well as all other market and economic factors relevant to a particular case.'' Proposed Regulation Concerning the Revocation of Antidumping Duty Orders, 64 FR 29818, 29820 (June 3, 1999). Thus, based upon three consecutive reviews resulting in zero or *de minimis* margins, the Department presumes that the company requesting revocation is not likely to resume selling subject merchandise at less than the NV in the near future unless the Department has been presented with evidence to demonstrate that dumping is likely to resume if the order were revoked. In this proceeding, we have not received any evidence that would demonstrate that Puglisi and Corex are likely to resume dumping in the future if the order were revoked. Therefore, we also preliminarily determine that the order is no longer necessary to offset dumping.

Because all requirements under the regulation have been satisfied, if these preliminary findings are affirmed in our final results, we intend to revoke the antidumping duty order with respect to merchandise produced and exported by Puglisi and Corex. In accordance with 19 CFR 351.222(f)(3), if these findings are affirmed in our final results, we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after the first day after the period under review, and will instruct the U.S. Customs Service to refund any cash deposit.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted-average margins exist for the period July 1, 1999, through June 30, 2000:

Manufacturer/exporter	Margin (percent)
Barilla	45.59
Corex	0
Delverde	0.58
Ferrara	4.39
Pagani	0
Pallante	2.40
PAM	4.48
Puglisi	*0.10
Rummo	*0.02
Riscossa	1.81

*De Minimis.

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), the Department will issue appraisement instructions directly to the U.S. Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. Where appropriate, in order to calculate the entered value, we subtracted international movement expenses (*e.g.,* international freight) from the gross sales value.

Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis,* the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 11.26 percent, the ''All Others'' rate established in the LTFV investigation. *See* Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy, 61 FR 38547 (July 24, 1996).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties

prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–16300 Filed 6–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–836]

Polyvinyl Alcohol From Taiwan: Final Results of the Fourth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of fourth antidumping duty administrative review.

SUMMARY: On February 22, 2001, the Department of Commerce published the preliminary results of the fourth antidumping duty administrative review of the antidumping duty order on polyvinyl alcohol from Taiwan. The review covers Chang Chun Petrochemical Company Ltd., a manufacturer/exporter of the subject merchandise. The period of review is May 1, 1999, through April 30, 2000.

We received no comments from interested parties on our preliminary results. Therefore, we have made no changes to the margin calculation. Therefore, the final results do not differ from the preliminary results. The final weighted-average dumping margin for Chang Chun Petrochemical Company Ltd. is listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Ledgerwood or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–3836 or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to 19 CFR part 351 (April 2000).

Background

The review covers one manufacturer/exporter, Chang Chun Petrochemical Company Ltd. (''Chang Chun''). The period of review (''POR'') is May 1, 1999, through April 30, 2000.

On February 22, 2001, the Department published in the **Federal Register** the preliminary results of the fourth antidumping duty administrative review of the antidumping duty order on polyvinyl alcohol (''PVA'') from Taiwan (66 FR 11137).

We invited parties to comment on the preliminary results of the review. No interested party submitted comments. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Order

The product covered by this order is PVA. PVA is a dry, white to cream-colored, water-soluble synthetic polymer. This product consists of polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid. Excluded from this order are PVAs covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and PVAs covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. PVA in fiber form is not included in the scope of this order.

The merchandise under order is currently classifiable under subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope is dispositive.

Final Results of the Review

Since neither party submitted comments for consideration in the final results, our final results remain unchanged from the preliminary results. The following weighted-average margin percentage remains for Chang Chun for the period May 1, 1999, through April 30, 2000:

Manufacturer/exporter	Margin (percent)
Chang Chun	0.00

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.,* at or above 0.50 percent).

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Cash deposits are no longer required on or after May 14, 2001, the effective date of revocation of the antidumping duty order on PVA as a result of the five-year sunset review (*see* 66 FR 22145, May 3, 2001).

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 21, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–16296 Filed 6–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–337–807]

Initiation of Countervailing Duty Investigation: IQF Red Raspberries From Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of countervailing duty investigation.

EFFECTIVE DATE: June 28, 2001.

FOR FURTHER INFORMATION CONTACT: Craig W. Matney or Jennifer D. Jones at (202) 482–1778 and (202) 482–4194, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 351 (April 2000).

The Petition

On May 31, 2001, the Department received a petition filed in proper form by the IQF Red Raspberry Fair Trade Committee (hereinafter ''the petitioner''). The Department received information supplementing the petition throughout the initiation period.

In accordance with section 702(b)(1) of the Act, the petitioner alleges that manufacturers, producers, or exporters of the subject merchandise from Chile receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner and its members filed this petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) of the Act and they have demonstrated sufficient industry support. *See infra,* ''Determination of Industry Support for the Petition.''

Scope of Investigation

The products covered by this petition are imports of individually quick frozen (IQF) whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (*e.g.,* organic or not), the size of the container in which packed, or the method of packing. The scope of the petition excludes fresh red raspberries and block frozen red raspberries (*i.e.,* puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under 0811.20.2020 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*see* Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27295, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Consultations

On June 13, 2001, the Department held consultations with representatives of the Government of Chile (GOC) pursuant to section 702(b)(4)(ii) of the Act. During these consultations, the GOC submitted copies of public laws relating to certain programs alleged in the petition. The points raised in the consultations are described in the Memorandum to the File, ''CVD Consultations with Officials from the Government of Chile,'' dated June 13, 2001, and in the subsequent ''Letter to Susan H. Kuhbach,'' dated June 14, 2001.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product, and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the ''Scope of Investigation'' section above. No party has commented on the petition's definition of the domestic like product, and there is nothing on the record to indicate that this definition is inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition.

Moreover, the Department has determined that the petition contains

[1] *See Algoma Steel Corp. Ltd.* v. *United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition,* 56 FR 32376, 32380–81 (July 16, 1991).

adequate evidence of industry support; therefore, polling is unnecessary (*see Initiation Checklist,* dated June 20, 2001 (*Initiation Checklist*), at Industry Support). The petitioner indicated that there may be several additional small U.S. producers accounting for less than 10 percent of U.S. production who are not petitioners. We have no knowledge of any other domestic producers. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Injury Test

Because Chile is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Chile materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise. The petitioner contends that the industry's injured condition is evident in the declining trends in net operating income, net sales volume and value, profit to sales ratios, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence, and meet the statutory requirements for initiation (*see Initiation Checklist*).

Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

Initiation of Countervailing Duty Investigation

The Department has examined the countervailing duty petition on IQF red raspberries from Chile and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of IQF red raspberries from Chile receive countervailable subsidies.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Chile:

1. Suppliers Development Program
2. Export Promotion by ProChile
3. Corporacion de Fomento de la Produccion (CORFO) Export Subsidies
4. Law 18,576 Export Credit Limits
5. Law 18,634 Import Duties on Capital Goods
6. Law 18,480 Simplified Duty Drawback

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in Chile:

1. Law 18,645 Loan Guarantees

The petition alleges that Law 18,645 provides to Chilean exporters of non-traditional goods loan guarantees of up to 50 percent of a loan's value, for loans which do not exceed U.S.$150,000. The petition further alleges that these guarantees are specific because they are limited to exporters. According to information provided by the petitioner, only products which qualify for simplified duty drawback under Law 18,480 are within the scope of Law 18,645.

The GOC states that the regulations implementing Law 18,645 (which are reasonably available to the petitioner) set conditions for receipt of these loan guarantees. Either the product must be eligible for simplified duty drawback (see above) or the industry must have exported less than U.S.$16.7 million on average over the past two years. The IQF red raspberry industry does not meet either criterion. Moreover, the same allegation was made in *Salmon,* and was rejected by the Department because the petitioners failed to identify any preferential treatment or benefit from the program. (See Notice of Initiation of Countervailing Duty Investigation: Fresh Atlantic Salmon From Chile, 62 FR 36772, 36775 (July 9, 1997). Therefore, the Department is not initiating an investigation of Law 18,645.

2. Start-up Assistance of Fundación Chile

The petition alleges that Fundación Chile has participated in the development of the Chilean raspberry industry since 1980 when production, processing and marketing tests of raspberries began. The petition further alleges that in 1985, Fundación Chile created two new producer/exporter berry companies in regions IX and X under its ''Development of New Species for Export'' program. However, the petition does not allege any potential assistance subsequent to 1985. Under 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life (AUL) of the renewable physical assets used to produce the subject merchandise. 19 CFR 351.524(d)(2) creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (the ''IRS Tables''). For the asset class which includes IQF red raspberries, ''manufacture of other food products,'' the IRS Tables prescribe an AUL of 12 years. Therefore, the Department is not initiating an investigation of Fundación Chile start-up assistance because any potential benefit would have been received outside the applicable AUL.

However, we will reexamine the allegation if the petitioner provides sufficient information that either extends the AUL to incorporate the period during which a benefit was received or if additional information is provided indicating that start-up assistance was provided to a producer or exporter during the appropriate period.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the GOC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under section 351.203(c)(2) of the Department's regulations.

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine no later than July 16, 2001, whether there is a reasonable indication that imports of IQF red raspberries from Chile are causing material injury, or threatening to cause material injury to, a U.S. industry. A negative ITC determination

will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–16297 Filed 6–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Guidance for Fiscal Year 2001 Coral Reef Management Funding

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Announcement of funding opportunity for financial assistance for Island coral reef conservation and management cooperative agreements.

SUMMARY: The purpose of this notice is to advise the public that the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Department of the Interior (DOI) are soliciting proposals from the U.S. Flag Island jurisdiction of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands for the purpose of coral reef conservation and management.

DATES: NOAA and DOI must receive Applications for cooperative agreements according to the following schedule:

Draft applications received by NOAA and DOI: June 29, 2001

NOAA and DOI comments back to Islands: July 20, 2001

Final complete application received by NOAA and DOI: August 3, 2001

Cooperative agreements awarded on or before: October 1, 2001

ADDRESSES: Applications should be sent to: John King, Acting Chief, CPD/OCRM, N/ORM–3, National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910, and Karen Koltes, Coral Reef Program Manager, Office of Insular Affairs, MS 4328 Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: For NOAA: Bill Millhouser, Pacific Regional Manager, CPD/OCRM, N–ORM–3, National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910; 301–713–3155 x 189; Internet: *bill.millhouser@noaa.gov.*

For DOI: Karen Koltes, Coral Reef Program Manager, Office of Insular Affairs, MS 4328, Department of the Interior, Washington, DC 20240; 202–208–5345; Internet: *karen_koltes@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: (1) *Program Authorities:* Specific authority for this Announcement is found in 16 U.S.C. 1442, Executive Order 13089 (June 11, 1998), Coral Reef Protection, for NOAA.

(2) *Catalog of Federal Domestic Assistance Numbers:* 11.419 for NOAA Coastal Zone Management Program Administration.

(3) *Program Description:* This notice provides guidance for applying for funding appropriated by Congress to the National Oceanic and Atmospheric Administration (NOAA) and the Department of the Interior (DOI) in Fiscal Year (FY) 2001 to support the conservation and management of coral reefs and associated fisheries by the island jurisdictions of Puerto Rico, the U.S. Virgin Islands, Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

Congress appropriated $26,941,000 in FY 2001 funding to NOAA in support of the Administration's budget request for Coral Reef Conservation activities. The Department of the Interior Office of Insular Affairs (OIA) also received funding in FY 2001 to enhance coral reef protection and management.

Among the top coral reef conservation priorities for both agencies is support for State and Territorial coral reef conservation activities as envisioned in the 1999, *U.S. All Islands Coral Reef Initiative Strategy,* and subsequent locally generated management strategies. NOAA and DOI will jointly award $2,435,000 in FY 2001 to support priority island coral reef ecosystem conservation efforts. Of this total, NOAA's National Centers for Coastal Ocean Science (NCCOS) will award $350,000 to support Monitoring and Assessment cooperative agreements with the Islands. As was the case last year, NCCOS will award a separate Monitoring and Assessment award to each jurisdiction. NOAA's Office of Ocean and Coastal Resource Management (OCRM), the National Marine Fisheries Service (NMFS) Office of Protected Resources (PR), and Office of Insular Affairs (OIA/DOI) will provide an additional $1,885,000 in funding for cooperative agreements to support Island coral reef and coral reef fishery management and conservation activities as listed below.

Program purpose	Agency	Amount (in millions)
Coral reef management.	OCRM OIA/DOI	$1.200 .350
Coral reef fishery management.	PR/NMFS	.335
Total		1.885

OCRM, PR/NMFS and OIA/DOI will coordinate their funding such that each Island will need to develop only one coral reef and coral reef fishery management application. The Federal agencies will coordinate their review of both cooperative agreements to ensure comparability and continuity between the two processes. It is anticipated OCRM will make awards to three of the six jurisdictions and that DOI will make awards to the remaining three jurisdictions.

To allow each Island the ability to continue projects initiated with last year's awards, each jurisdiction is eligible to receive an award ranging from a minimum of $225,000 to a maximum of approximately $400,000. To be eligible for the award, the jurisdiction must have made reasonable progress in completing tasks under their FY 1999 and FY 2000 coral management awards, as evidenced in the required performance and financial reports.

(4) *Funding Availability:* Funding is contingent upon the availability of Federal appropriations. It is estimated that approximately $1,885,000 in FY 2001 funding is available for Coral Reef and Coral Reef Fishery Management cooperative agreements. Support in outyears after FY 2001 is contingent upon the availability of funds and the requirements of the agency supporting the project.

(5) *Matching Requirements:* None.

(6) *Type of Funding Instrument:* Cooperative agreements.

(7) *Eligibility Criteria:* Eligible applicants are government jurisdictions of American Samoa, the Commonwealth of Northern Mariana Islands, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

(8) *Award Period:* Full Proposals should cover a project period of 12 to 18 months with an anticipated start date of October 1, 2001.

(9) *Indirect Costs:* If indirect costs are proposed, the total dollar amount of the indirect costs proposed in an application must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award.

(10) *Application Forms:* Applications should reflect the strategy developed in

the 1999, U.S. All Islands Coral Reef Initiative Strategy, as modified by the events and activities of the last three years, and support the U.S. Coral Reef Task Force National Action Plan to Conserve Coral Reefs. In addition, proposed activities should be coordinated, where appropriate, with ongoing and proposed NOAA mapping, monitoring, and fishery management initiatives, and DOI Fish and Wildlife Service and National Park Service coral reef activities.

States and territories must consult with all relevant local governmental and non-governmental entities involved in coral reef activities in developing the application. Local government agencies that must be consulted include coastal zone management, water quality, and wildlife and/or marine resource agencies.

Applicants should also include in their award, anticipated travel costs associated with attendance and participation at U.S. Coral Reef Task Force and other relevant meetings and conferences. In the past, NOAA and/or DOI have funded much of this travel on an invitational basis. However, Federal staff and travel funding limitations will not allow for the continuation of such arrangements. Applicants may submit applications covering up to an eighteen-month period, and must meet all applicable DOC or DOI grant requirements, and submit, with the final application package, all required Federal financial assistance forms. One copy of the jurisdiction's award application should be submitted to OCRM and one copy to OIA.

(a) *Application Format.* There is a need for improved accountability relative to the objectives established for this program, as well as under the National Action Plan. Therefore, to track each applicant's progress in managing its coral reef and fishery resources this year's applications should be structured as follows:

First, in developing the proposal, the applicant should organize proposed tasks into the following ten (10) categories, which are based on those found in the *National Action Plan:*

(i) Mapping, Aerial Photography, and Digital/Satellite Imagery for reef conservation, e.g. developing benthic habitat maps or other Geographic Information System (GIS) data layers, etc

(ii) Monitoring and Assessment of coral reefs or reef resources; e.g. baseline characterizations of reef ecosystems, workshops to standardize methods, database system development, purchase of eequipment, training, etc (Note: most, if not all of proposed monitoring projects, should be funded out of the NCCOS Coral Reef Monitoring Award.

(iii) Research, e.g., nutrient input modeling, coral recruitment studies, coral culturing, etc.

(iv) Socio-economic and Resource Valuation, e.g., community surveys, economic valuations, alternatiave income generation workshops, etc.

(v) Marine Protected Areas and associated management activities, e.g., Marine Protected Area (MPA) or Marine Management Area (MMA) planning and implementation, peresonnel training, equipment procurement, signage, enforcement, etc.

(vi) Coral Reef Fisheries Management and Enforcement, e.g., resources assessments, colleciton of fishery information, im,plementation of fishery regulations and reserves, enforcement personnel training and equipment procurement, etc.

(vii) Reducing Habitat Destruction, e.g., coastal zone management, vessel grounding prevention and management, mooring buoy installation, etc.

(viii) Reducing Pollution:

- Oil-spill prevention and response, e.g., developing response plans, personnel training, interagency coordination, etc.
- Marine debris prevention and removal, e.g., developing prevention policies, collection and disposal of debris, etc
- Reducing inspects from land-based watershed pollution source, e.g., developing prevention policies, collection and disposal of debris, etc
- Reducing impacts from land-based/ watershed pollution source, e.g., BMP planning and implementation, watershed restoration projects, etc.
- Invasive alien species management, e.g., policy development, mitigation projects, etc.

(ix) Coral Reef Restoration, e.g., damage mitigation, coral transplantation, monitoring of restoration sites, etc.

(x) Public Education and Outreach, e.g., brochures and other informational materials, public meetings and workshops, etc.

Second, for each category in which a project is proposed, the applicant should include an introduction that describes: The status and magnitude of the issues in your jurisdiction; recent actions undertaken to address the issues, with a focus on federally-funded tasks; and the jurisdiction's strategy to address critical needs over the medium term (the next two to three years). This introduction should not exceed one page for each category project.

Finally, the description of each proposed task should include:

- Clear identification of the work to be completed, who will perform the work, and how the project fits into the jurisdiction's strategy for addressing the larger issue;
- How the project coordinates with relevant local governmental and non-governmental agencies and, if applicable, NOAA or DOI regional activities;
- Summary budget;
- Task timetable with interim benchmarks and clearly-defined work products; and,
- Project priority as compared to all other proposed projects.

(b) *Special Guidance for Coral Reef Fishery Management Proposals Funded by the National Marine Fisheries Service (NMFS).* The mandate of NMFS is to build sustainable fisheries, recover protected species, and sustain healthy habitats for these species.

In FY 2001, NMFS has identified $335,000 to fund priority Island coral reef projects in these substantive areas. Examples of eligible projects include:

- Assessment and monitoring of fish and fishery resources, collection of fishery information;
- Analysis of fishery impacts on reefs and support for the implementation of fishery gear restrictions or other priority regulations;
- Development of fishery reserves;
- Activities to improve management of ornamental reef species for the aquarium industry;
- Hiring or training of enforcement officers; and,
- Outreach and education on fishery and endangered species issues.

Proposals for coral reef fisheries management projects should range from $40,000 to $60,000 per jurisdiction.

(11) *Evaluation Criteria:* The objective of this funding is to support systematic coral reef management and conservation programs in the U.S. Flag Islands aimed at maintaining and/or improving the health of coral reef ecosystems. OCRM, NMFS, and DOI will allocate the $1,885,000 designated as Coral Reef Management and Coral Reef Fishery Management funds based on of the following equally weighted evaluation criteria:

(a) The need for coral reef management activities in the jurisdiction;

(b) The quality of the application submitted; and,

(c) The past performance of the jurisdiction in completing work in FY 1999 and FY 2000 NOAA and DOI coral awards.

(12) *Selection Procedures:* A Federal agency team of representatives from

OCRM, NMFS, and DOI will make the final funding allocations for each jurisdiction. The Federal agency team will review the draft applications and will provide comments to each applicant. These comments will include input from individuals with coral reef and fisheries management experience. The Federal agency team will then review the final complete applications and make final decisions on the funding to be awarded to each jurisdiction based on the score that each application receives as a result of the application of the criteria listed in subsection (11) above.

If one or more jurisdictions are ineligible to receive an award, NOAA and DOI will consult with the individual members of the All Islands Group on the use of those residual funds. NOAA and DOI will work with each jurisdiction to ensure the greatest degree of success in meeting that island's objectives.

Other Requirements

(1) *Federal Policies and Procedures*—Recipients and sub recipients are subject to all Federal laws and Federal and DOC policies, regulations and procedures applicable to Federal financial assistance awards. Applicants must use the standard NOAA grants application package, available from OCRM or the NOAA Grants Management Division, with the exception of draft applications, which should, at a minimum, include basic information on task descriptions and costs. Final complete applications must meet all requirements contained in this notice.

(2) *Past Performance*—Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(3) *Pre-award Activities*—If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

(4) *No Obligation for Future Funding*—If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

(5) *Delinquent Federal Debts*—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(a) The delinquent account is paid in full,

(b) A negotiated repayment schedule is established and at least one payment is received, or

(c) Other arrangements satisfactory to DOC are made.

(6) *Primary Applicant Certifications*—All primary applicants must submit a completed form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations hereby provided:

(a) *Nonprocurement Debarment and Suspension*—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

(b) *Drug Free Workplace*—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, ''Government Requirements for Drug-Free Workplace (Cooperative agreements),'' and the related section of certification form prescribed above applies;

(c) *Anti-Lobbying*—Persons (as defined at 15 CFR part 26, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for cooperative agreements, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(d) *Anti-Lobbying Disclosures*—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

(7) *Lower Tier Certifications*—Recipients shall require applicants/bidders for sub awards, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or sub recipient should be submitted to DOC in accordance with the instructions contained in the award document.

(8) *False Statements*—A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(9) This notice has been determined to be not significant for purposes of Executive Order 12866.

(10) This notice does not involve collection-of-information requirements subject to the Paperwork Reduction Act.

(11) This rule does not contain policies with Federalism impacts as that term is defined in Executive Order 13132.

Dated: June 21, 2001.

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 01–16228 Filed 6–27–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061901C]

International Whaling Commission; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: NOAA makes use of a public Interagency Committee to assist in preparing for meetings of the International Whaling Commission (IWC). This notice defines guidelines for participating on the Committee and provides a tentative schedule of meetings and of important dates.

DATES: The July 6, 2001, Interagency Meeting will be held at 2 p.m. See **SUPPLEMENTARY INFORMATION** for the schedule for the 2001 IWC annual meeting.

ADDRESSES: The July 6, 2001, meeting will be held in Room B841–A, Herbert C. Hoover Building, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Cathy Campbell, (301) 713–2322 Extension 141.

SUPPLEMENTARY INFORMATION: The purpose of the July 6, 2001, Interagency Committee meeting is to review recent events relating to the IWC and to

discuss U.S. positions for the 2001 IWC annual meeting.

The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. The U.S. Commissioner to the IWC has primary responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other interested agencies.

Each year, NOAA conducts meetings and other activities to prepare for the annual meeting of the IWC. The major purpose of the preparatory meetings is to provide input in the development of policy by individuals and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of U.S. policy concerning whaling. Any person with an identifiable interest in whale conservation policies may participate in the meetings, but NOAA reserves the authority to inquire about the interest of any person who appears at a meeting and to determine the appropriateness of that person's participation. Foreign nationals and persons who represent foreign governments may not attend. These stringent measures are necessary to promote the candid exchange of information and to establish the necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practices.

Tentative Meeting Schedule

The schedule for the 2001 IWC annual meeting is as follows:

July 3–4, 2001 (London, UK): IWC Scientific Committee Working Groups and Sub-committees.

July 4–16, 2001 (London, UK): IWC Scientific Committee.

July 18–21, 2001 (London, UK): IWC Commission Committees, Sub-committees and Working Groups.

July 23–27, 2001 (London, UK): IWC 53rd Annual Meeting.

Special Accommodations

Department of Commerce meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cathy Campbell (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: June 22, 2001.

Don Knowles,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–16286 Filed 6–27–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of forthcoming meetings of the Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System (NCSS). The purpose of these meetings is to conduct a comprehensive and independent review of the NCCS positive measures to assure authorized use of nuclear weapons when directed by the President while assuring against unauthorized or inadvertent use. This meeting will be closed to the public.

DATES: July 25–26, 2001.

ADDRESSES: Defense Threat Reduction Agency Headquarters, 8725 John Kingman Rd., Fort Belvoir, VA 22060–6201.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Jones, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041, (703) 681–8681.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–16271 Filed 6–27–01; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

Pursuant to the provisions of part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant Hybrid Plastics, Inc., a California corporation, an exclusive license in U.S. Patent No. 5,939,576 entitled, ''Method of Functionalizing Polycyclic Silicones and the Compounds So Formed,'' issued August 17, 1999; U.S. Patent No. 5,942,638 entitled, ''Method of Functionalizing Polycyclic Silicones and the Resulting Compounds,'' issued August 24, 1999; and U.S. Patent No. 6,100,417 entitled, ''Functionalizing Olefin Bearing Silsesquioxanes,'' issued August 8, 2000.

A license for these patents will be granted unless a written objection is received within 60 days from the date of publication of this Notice. Information concerning this Notice may be obtained from Mr. William H. Anderson, Associate General Counsel (Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Anderson can be reached at 703–588–5090 or by fax at 703–588–8037.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 01–16270 Filed 6–27–01; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests.

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 27, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and

proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 22, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Intergovernmental and Interagency Affairs

Type of Review: Extension.

Title: Sign-on Form for Partnerhship for Family Involvement in Education.

Frequency: One time.

Affected Public: Not-for-profit institutions; Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 800
Burden Hours: 67

Abstract: The Partnership for Family Involvement in Education (PFIE) offers a vehicle for schools, community organizations, employers, and faith organizations to commit to promoting children's learning through development of family-school partnerships.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie.Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–16229 Filed 6–27–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 27, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 22, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Pre-Elementary Education Longitudinal Study (PEELS).

Frequency: Semi-Annually, Annually, Biennially.

Affected Public: Individuals or households; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 10,477
Burden Hours: 5,296

Abstract: PEELS will provide the first national picture of experiences and outcomes of three-to five-year-old children in early childhood special education. The study will inform special education policy development and support Government Performance and Results Act (GPRA) measurement and Individuals with Disabilities Education Act (IDEA) reauthorization with data from parents, service providers, and teachers.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–16232 Filed 6–27–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB

review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 30, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 22, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Information Technology (IT) External Certification Program.

Frequency: On Occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Businesses or other for-profit; Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 300

Burden Hours: 70

Abstract: Case studies of selected high school and community college IT programs offer some basic information about IT certification classes, a growing program at both levels. The case study encompasses three data collection components: (1) A survey of students from 10 high schools and 10 community colleges who completed an IT skill certification class in school year 1999–00, (2) site visits to half of these high schools and colleges, and (3) telephone interview with selected staff from the remaining schools.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at (202) 708–5359 or via her internet address Jackie.Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–16230 Filed 6–27–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 30, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 22, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Final Performance Report for Grants under Title III—Institutional Aid Programs.

Frequency: Once after the expiration date.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 200

Burden Hours: 2,000

Abstract: This data collection is needed for program evaluation and to respond to Government Performance and Results Act (GPRA) requirements. Information obtained from this collection will be used to support budget submissions to OMB; respond to inquiries from the Congress, higher education interest groups and the general public. Respondents are colleges, universities and eligible professional organizations.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland

Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–16231 Filed 6–27–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education, Department of Education; Notice of Meeting

ACTION: Notice of meeting.

SUMMARY: This notice provides the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: July 24, 2001, 9 a.m. to 3:30 p.m.

ADDRESSES: Monarch Hotel, 2401 M Street, NW., Washington, DC 20037. Telephone: (202) 429–2400.

FOR FURTHER INFORMATION CONTACT: Donald Fischer, U.S. Department of Education, 1990 K Street NW., Washington, DC 20006–8544. Telephone: (202) 502–7500 or by e-mail: *donald.fischer@ed.gov.* Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday).

Individuals with disabilities may obtain this document in an alternate format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under title VII, part B, section 742 of the Higher Education Amendments of 1998 (20 U.S.C. 1138a). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and procedures for grant awards.

The meeting of the National Board is open to the public. The National Board will meet on Tuesday, July 24 from 9:30 a.m. to 4 p.m. to provide an overview of the Fund's program status and special initiatives.

The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device or materials in an alternative format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement of Postsecondary Education, 8th Floor, 1990 K Street NW., Washington, DC. 20006–8544 from the hours of 8 a.m. to 4:30 p.m.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–16193 Filed 6–27–01; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Amended Record of Decision; Savannah River Site Waste Management, Savannah River Operations Office, Aiken, South Carolina

AGENCY: Department of Energy.

ACTION: Amended Record of Decision.

SUMMARY: This Record of Decision (ROD) modifies earlier Department of Energy (DOE) decisions concerning the treatment and disposal of low-level radioactive waste (LLW) and mixed hazardous and low-level radioactive waste (MLLW) at the Savannah River Site (SRS) to be consistent with DOE's subsequent programmatic decision. DOE Orders and policy require DOE to use its own facilities for treatment and disposal; however, an exemption may be granted, if this is not practical. Because of (1) SRS inability to meet state requirements for a MLLW disposal facility, (2) funding reductions for waste treatment facilities, and (3) the apparent adequacy of existing and planned capacity at either DOE regional or commercial treatment and disposal facilities, DOE has decided to: continue to treat some SRS LLW onsite or, if an exemption is granted, at commercial treatment facilities, as previously decided; continue to dispose of SRS LLW and treatment residuals onsite, as previously decided, and, in addition, dispose of some SRS LLW and treatment residuals at DOE regional or, if an exemption is granted, at commercial disposal facilities; continue to treat some SRS MLLW onsite or, if an exemption is granted, at commercial treatment facilities, as previously decided, and, in addition, treat some SRS MLLW at other DOE regional treatment facilities; and dispose of treated SRS MLLW and treatment residuals at DOE regional or, if an exemption is granted, at commercial disposal facilities, not onsite, as previously decided. This decision is consistent with agreements between DOE and the State of South Carolina concerning MLLW management under the Federal Facility Compliance Act (FFCAct) of 1992.

FOR FURTHER INFORMATION CONTACT: For further information regarding SRS waste management, contact: Andrew R. Grainger, NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, Building 742–A/Room 185, Aiken, SC 29808, (800) 881–7292. *Electronic mail:* drew.grainger@srs.gov.

For further information on DOE's Waste Management Programmatic Environmental Impact Statement (WM PEIS) or its RODs, contact: Karen Guevara, WM PEIS Program Manager, U.S. Department of Energy, Office of Environmental Management, 19901 Germantown Road, Germantown, MD 20874, (301) 903–4981.

For general information on the U.S. Department of Energy National Environmental Policy Act (NEPA) process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0119, (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

SRS occupies approximately 300 square miles adjacent to the Savannah River, principally in Aiken and Barnwell Counties of South Carolina, about 25 miles southeast of Augusta,

Georgia, and about 20 miles south of Aiken, South Carolina. DOE's primary mission at SRS from the 1950s until the recent end of the Cold War was the production and processing of nuclear materials to support defense programs. The end of the Cold War has led to a reduction in the size of the United States nuclear arsenal. Many of the facilities that were used to manufacture, assemble, and maintain the arsenal are no longer needed. Some of these facilities can be converted to new uses after decontamination; others must be decommissioned. Some facilities continue to operate to stabilize and prepare nuclear materials for disposition, and new facilities may be required for material disposition. Wastes generated must be managed in a safe and cost-effective manner. In addition, DOE must continue to comply with applicable environmental requirements in managing wastes that may be generated in the future.

In July 1995, DOE issued the SRS Waste Management Environmental Impact Statement (WMEIS) to evaluate the potential environmental impacts and costs of storing, treating, and/or disposing of certain SRS wastes. In an October 1995 ROD (60 FR 55249; October 30, 1995), DOE announced its intention to implement the ''Moderate Treatment Configuration Alternative.'' The ROD announced offsite treatment of some SRS LLW and MLLW, and stated that, for waste treated offsite, the treated waste and residuals for both LLW and MLLW would be returned to SRS for onsite storage or disposal.

The radioactive component of MLLW is regulated under the Atomic Energy Act and the hazardous component under the Resource Conservation and Recovery Act, as amended by the FFCAct of 1992. The FFCAct required DOE to prepare Site Treatment Plans (STPs) that identified treatment for mixed waste, including MLLW, for each DOE site that stores and/or generates mixed waste. For SRS, DOE developed a STP that the State of South Carolina reviewed and subsequently approved on September 20, 1995, and DOE and the State executed a Consent Order on September 29, 1995, specifying implementation requirements for the approved STP. The SRS WMEIS evaluated the potential environmental impacts of treatment options identified in the STP, but due to the simultaneous development of the WMEIS, STP and Consent Order, the October 1995 ROD made few MLLW decisions.

In May 1997, DOE issued a supplemental ROD (62 FR 27241; May 19, 1997) that announced DOE's decision on treatment of MLLW, consistent with the STP and Consent Order between DOE and the State of South Carolina under the FFCAct. The May 1997 supplemental ROD also stated that the residuals of MLLW shipped offsite for treatment would be returned to SRS for storage or disposal.

In May 1997, DOE also issued the Waste Management Programmatic EIS (WM PEIS) (DOE/EIS–0200), which studied the potential nationwide impacts of managing four types of radioactive waste (i.e., LLW, MLLW, transuranic waste, and high-level waste) and non-wastewater hazardous waste generated by defense and research activities at 54 sites around the United States. The WM PEIS analyzed the potential environmental impacts of alternatives for treatment, storage, and disposal of wastes for DOE's waste management program. WM PEIS analyses include evaluating potential impacts associated with transporting wastes by truck and by rail.

Based on the WM PEIS, DOE issued a ROD (65 FR 10061; February 25, 2000) for the treatment and disposal of LLW and MLLW, which is described below. Current DOE Orders and policy require treatment and disposal of LLW and MLLW to be at DOE sites. If this is not practical, an exemption to this requirement may be requested through the DOE Order process. The WM PEIS ROD does not preclude DOE's use of commercial facilities for LLW and MLLW treatment or disposal, should such an exemption be granted.

For treatment of LLW, DOE decided that each site will perform at least minimum treatment on its own LLW, although each site may perform additional treatment as would be useful to decrease overall costs.

For disposal of LLW, DOE decided to establish regional LLW disposal facilities at the Hanford Site and Nevada Test Site (NTS), which will each dispose of its own LLW onsite, and also will receive and dispose of LLW that meets its waste acceptance criteria and is generated and shipped (by either truck or rail) by other DOE sites. In addition, DOE will continue, to the extent practicable, to dispose onsite LLW that is generated at the Idaho National Engineering and Environmental Laboratory (INEEL), Los Alamos National Laboratory, Oak Ridge Reservation (ORR), and SRS. INEEL and SRS also will continue to dispose of LLW generated by the Naval Nuclear Propulsion Program.

For MLLW treatment, DOE decided to conduct regional MLLW treatment at the Hanford Site, INEEL, ORR, and SRS, or onsite at other DOE generator sites, as would be consistent with current STPs.

For MLLW disposal, DOE decided to establish regional MLLW disposal operations at the Hanford Site and Nevada Test Site, which will each dispose of its own MLLW onsite and will receive and dispose of MLLW generated and shipped (by truck or rail) by other sites, consistent with permit conditions and other applicable requirements.

Decision

This ROD announces DOE's amended decision concerning SRS LLW and MLLW to:

- Continue to treat some SRS LLW onsite or, if an exemption to the requirement to treat at a DOE facility is granted, at commercial treatment facilities, as previously decided;
- Continue to dispose of SRS LLW and treatment residuals onsite, as previously decided, and, in addition, dispose of some SRS LLW and treatment residuals at DOE regional facilities, or, if an exemption to the requirement to use DOE facilities is granted, at commercial disposal facilities;
- Continue to treat some SRS MLLW onsite or, if an exemption to the requirement to use DOE facilities is granted, at commercial treatment facilities, as previously decided, and, in addition, treat it at other DOE regional treatment facilities; and
- Dispose of treated SRS MLLW and treatment residuals at DOE regional or, if an exemption to the requirement to use DOE facilities is granted, at commercial disposal facilities, not onsite at SRS as previously decided.

To implement this decision, DOE will undertake the following activities to further implement the environmentally preferable ''Moderate Treatment Configuration Alternative'' previously selected for SRS LLW and MLLW:

Onsite treatment of about 90% of SRS LLW will continue, to the extent practicable, at existing SRS facilities (e.g., the Super Compactor Facility). For certain LLW streams (about 10%), onsite treatment is not practicable. If treatment at another DOE facility is not practicable and an exemption is granted, these wastes will be sent to an offsite commercial treatment facility (e.g., liquid LLW to Diversified Scientific Services, Inc., a commercial facility in Oak Ridge, Tennessee). Onsite disposal of about 90% of SRS LLW will continue, to the extent practicable, at existing SRS facilities (e.g., the Low Activity Waste Vaults and Intermediate Level Vaults). For certain LLW streams (about 10%), onsite disposal is not practicable. These wastes will be sent to a DOE regional disposal facility (i.e., Hanford Site or NTS) or, if this is not practical and an

exemption is granted, to a commercial facility, consistent with the facility's waste acceptance criteria. DOE will select facilities based on the technical requirements and capabilities of the receiving facility and cost, consistent with applicable requirements, such as the DOE Radioactive Waste Management Order, DOE O 435.1, and the corresponding Manual, DOE M 435.1–1, and Guide DOE G 435.1–1.

DOE will continue onsite treatment of SRS MLLW streams (about 20%) for which SRS has the capacity, unless an exemption is granted (e.g., the Effluent Treatment Facility or Consolidated Incineration Facility). Certain MLLW streams (about 80%) for which onsite treatment capacity does not exist or is not cost effective will be treated at two of DOE's four regional treatment facilities (i.e., Hanford Site or ORR), or, if an exemption is granted, at a commercial facility (e.g., MLLW High Efficiency Particulate Air Filters to Materials & Energy Corp., a commercial facility in Oak Ridge, Tennessee). All treated MLLW and residuals (100%) from onsite or offsite treatment will be disposed of at a DOE regional disposal facility (i.e., Hanford Site or NTS), consistent with the disposal facility's waste acceptance criteria, or, if an exemption is granted, at a commercial facility (e.g., solidified incinerator ash at Envirocare in Clive, Utah). DOE will use DOE facilities, whenever practical. When this is not practical, DOE will select other facilities based on the technical requirements and capabilities of the receiving facility and cost, consistent with applicable requirements, such as DOE Radioactive Waste Management Order, DOE O 435.1, DOE M 435.1–1, and DOE G 435.1–1.

Reasons for Decision

This decision modifies the October 1995 and May 1997 RODs for the SRS WMEIS to be consistent with DOE's programmatic decisions concerning LLW and MLLW treatment and disposal and to reflect regulatory and budgetary conditions at SRS. Some onsite treatment facilities for MLLW (e.g., the Mixed Waste Treatment Facility) and disposal facilities for LLW and MLLW (e.g., additional LLW disposal vaults and MLLW disposal vaults) that would have been implemented under previous decisions do not exist or are no longer planned at SRS. The reasons for the cancellation of additional onsite facilities are: The inability of SRS to meet current South Carolina Department of Health and Environmental Control Resource Conservation and Recovery Act waste disposal facility requirements, funding reductions for treatment and disposal facilities at SRS, and the apparent adequacy of existing or planned treatment and disposal capacity at other DOE and commercial facilities.

This decision is consistent with agreements between DOE and the State of South Carolina concerning MLLW management under the FFCAct of 1992.

Environmental Impacts

Potential impacts of this decision on SRS land use and ecological resources are expected to be less than the impacts previously analyzed in the SRS WMEIS, due to canceling construction and operation of additional SRS treatment and disposal facilities, and, instead, using existing or planned offsite commercial or DOE treatment and disposal facilities. Before implementing this decision at receiving sites other than SRS, DOE will determine the need for additional site-specific or project level NEPA reviews.

Mitigation

DOE believes that all practicable means to avoid and minimize environmental harm from the previously selected ''Moderate Treatment Configuration Alternative'' have already been adopted.

Conclusion

DOE has reviewed the information and analyses in the SRS WMEIS and WM PEIS (Chapters 6 and 7), and determined that this amended decision is adequately supported by these EISs. In making this amended decision, DOE considered beneficial and adverse environmental impacts, costs, and regulatory commitments.

Issued in Washington, DC on this 4th day of June, 2001.

Carolyn L. Huntoon,

Acting Assistant Secretary for Environmental Management.

[FR Doc. 01–16264 Filed 6–27–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE: Thursday, July 19, 2001—5:30 p.m.–9 p.m.

ADDRESSES: Paducah Information Age Park Resource Center, 2000 McCracken Boulevard, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: W. Don Seaborg, Deputy Designated Federal Officer (DDFO), Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6806.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda

5:30 p.m.—Informal Discussion
6 p.m.—Call to Order; Review of agenda; Approval of minutes
6:20 p.m.—DDFO's Comments
6:40 p.m.—Board comments and public comments/questions
7 p.m.—Ex-officio comments
7:10 p.m.—Break
7:15 p.m.—Presentation—Site Wide Sediment Controls Project
8 p.m.—Break
8:10 p.m.—Task Force and Subcommittee Reports
8:50 p.m.—Administrative Issues

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat J. Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments as the first item of the meeting agenda.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8 a.m. and 5 p.m. on

Monday thru Friday or by writing to Pat J. Halsey, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling her at (270) 441–6802.

Issued at Washington, DC on June 22, 2001.

Belinda Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–16261 Filed 6–27–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, July 23, 2001—6:30 p.m.–9 p.m.; Tuesday, July 24, 2001—8:30 a.m.–4:30 p.m.

ADDRESSES: Holiday Inn-Coliseum at University of South Carolina, 630 Assemble Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Science Technology & Management Division, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 725–5374.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to the Department of Energy and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

Monday, July 23, 2001

6:30 p.m.–7 p.m.—Public comment session
7 p.m.–9 p.m—Issues-based committee meetings
9 p.m.—Adjourn

Tuesday, July 24, 2001

8:30–9:15 a.m.—Approval of minutes; Agency updates; Public comment session; Facilitator update
9:15–10:15 a.m.—Nuclear Materials Committee Report
10:15–11:15 a.m.—Environmental Remediation Committee
11:15–12:15 a.m.—Education Committee; Public Comments
12:15 p.m.—Lunch Break
1–2:45 p.m.—Waste Management Committee Report
2:45–4:15 p.m.—Strategic & Long-Term Issues Committee
4:15–4:30 p.m.—Administrative Committee Report; Public Comments
4:30 p.m.—Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, July 23, 2001.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make the oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on June 22, 2001.

Belinda Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–16263 Filed 6–27–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Worker Advocacy Advisory Committee Meeting

AGENCY: Department of Energy.

ACTION: Notice of open teleconference meeting.

SUMMARY: This notice announces an open teleconference meeting of the Worker Advocacy Advisory Committee (WAAC).

The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770), requires that notice of this meeting be published in the **Federal Register** to allow for public participation. The purpose of the meeting is to provide the Committee and public participants with a status update on the implementation of the Energy Employees Occupational Illness Compensation Program Act of 2000. The program is scheduled to be launched on July 31, 2001. Representatives from the four agencies involved in this program (Department of Energy, Department of Labor, Department of Health and Human Services, and Department of Justice) will summarize progress in their respective programs, and provide details on plans for the program rollout on July 31.

DATES: Friday, July 20, 2001, 1 –5 p.m.

ADDRESSES: Participants may call the Office of Worker Advocacy at (202) 586–2407 to reserve a teleconference line and receive a call-in number. Public participation is welcomed. However, the number of teleconference lines is limited and will be made available on a first-come, first-serve basis.

FOR FURTHER INFORMATION CONTACT: Judy Keating, Executive Administrator, Worker Advocacy Advisory Committee, U.S. Department of Energy, EH–8, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone Number 202–586–7551, E-mail: judy.keating@eh.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice to the Director of the Office of Worker Advocacy of the Department of Energy on plans, priorities, and strategies for assisting workers who have been diagnosed with work-related illnesses.

Tentative Agenda:

Welcome and Introduction
Opening Remarks
Status of Implementation of Energy Employees Occupational Illness Compensation Act
Public Comment
Next Steps/Path Forward

Public Participation: This teleconference meeting is open to the public on a first-come, first-serve basis because of the extremely limited number of telephone lines. Written statements may be filed with the committee before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Judy Keating at the address or telephone listed above. Requests to make oral statements must be made and received

five days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chair of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. For those who may not be able to participate due to the limited phone lines, please note that there will be a follow up public meeting of the Worker Advocacy Advisory Committee in Denver, Colorado at the end of August. Details of that meeting are still being worked out.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on June 22, 2001.

Belinda Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–16262 Filed 6–27–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–387–000]

Algonquin Gas Transmission Company; Notice of Application

June 22, 2001.

Take notice that on June 15, 2001, Algonquin Gas Transmission Company (Algonquin), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP01–387–000 an application pursuant to the provisions of Section 7 of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate facilities and to authorize the leasing of capacity on Algonquin's system all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.rimsweb1.ferc.fed.us/rims.?rp2~intro* (call 202–208–2222 for assistance).

Specifically, Algonquin proposes to: (1) Retest and upgrade its C–1 and C–1 L pipelines in New Haven County, Connecticut from their current maximum allowable operating pressure (MAOP) of 750 psig to an MAOP of 814 psig; (2) expose, inspect and repair, as necessary, two 25-foot segments of pipe on the C–1 pipeline in New Haven County, Connecticut; (3) construct a new 10,310 horsepower compressor station in Cheshire, Connecticut near the beginning of the C–1 and C–1 L pipelines; and (4) remove two tool launchers from an existing aboveground facility in New Haven, Connecticut and relocated them to the proposed compressor station in Cheshire, Connecticut. Algonquin states that the estimated cost of the facilities is approximately $32.3 million. Algonquin proposes to place the facilities in service on November 1, 2003.

Algonquin also seeks authorization to lease 285,000 Dth per day of capacity to Islander East Pipeline Company, L.L.C. (Islander East) from Cheshire, Connecticut (the intersection of the Algonquin mainline and its C-system) to a proposed interconnection between Algonquin and Islander East near North Haven, Connecticut for a primary term of 20 years. The fixed monthly lease payment under the lease agreement is $334,135. In addition, Islander East will pay a monthly operating and maintenance charge of $32,307. Algonquin states that the monthly lease payment is less than what Islander East would pay if it had contracted for firm service on Algonquin and thus meets Commission standards for lease payments.

Algonquin states that this project, in conjunction with the Islander East proposal in Docket No. CP01–384–000, *et al.,* will allow markets in the Long Island and New York City area as well as future markets in Connecticut to access eastern Canadian offshore gas production. Algonquin also indicates that the lease agreement will eliminate Islander East's need to construct duplicative facilities in Connecticut, reducing the potential environmental impact of the Islander East project. Further, Algonquin asserts that this project will provide its shippers with direct access to the Long Island and New York City markets and enhance the operating efficiency and reliability of its system with additional compression and increased system pressures. Algonquin states that its proposal is consistent with the Commission's statement of policy on certification of new interstate natural gas pipeline facilities.

Any questions regarding the application should be directed to Richard J. Kruse, Senior Vice President, Industry Initiatives, Pricing & Regulatory Affairs, Algonquin Gas Transmission Company, P.O. Box 1642, Houston, Texas 77251–1642 at 713–627–5368 or by facsimile at 713–627–4027.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before July 13, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the

environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, 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.gov/documents/makeanelectronicfiling/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–16224 Filed 6–27–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2111–001]

Allegheny Energy Service Corporation, on Behalf of Allegheny Energy Supply Company, LLC (AE Supply); Notice of Filing

June 22, 2001.

Take notice that on June 22, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (AE Supply), filed an amendment to First Revised Rate Schedule FERC No. 4 (First Revised Schedule) filed at Docket No. ER01–2111–000. The amendment is filed at the request of Commission Staff.

Copies of the filing have been provided to all parties on the service list in this proceeding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 2, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–16252 Filed 6–27–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–384–000, CP01–385–000 and CP01–386–000]

Islander East Pipeline Company, L.L.C.; Notice of Applications

June 22, 2001.

Take notice that on June 15, 2001, Islander East Pipeline Company, L.L.C. (Islander East), P.O. Box 1642, Houston, Texas 77251–1642, filed applications pursuant to Section 7(c) of the Natural Gas Act. In Docket No. CP01–384–000, Islander East seeks a certificate of public convenience and necessity authorizing it to construct, install and operate pipeline, compression, and metering facilities, as well as lease pipeline capacity on Algonquin Gas Transmission Company's (Algonquin) system. In Docket No. CP01–385–000, Islander East seeks a blanket certificate authorizing certain routine activities under Part 157, Subpart F of the Commission's Regulations. In Docket No. CP01–386–000, Islander East seeks a blanket certificate pursuant to 18 CFR part 284, Subpart G of the Commission's Regulations for self-implementing transportation authority. Islander East's proposals are more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.rimsweb1.ferc.fed.us/rims.q?rp~intro* (call 202–208–2222 for assistance).

Islander East proposes in Docket No. CP01–384–000 to construct and operate approximately 44.8 miles of 24-inch pipeline from an interconnection with the facilities of Algonquin near North Haven, Connecticut to the town of Brookhaven, New York. At Brookhaven, Islander East will deliver gas to KeySpan Energy Delivery Long Island, a local distribution company, and to Brookhaven Energy Limited Partnership, an affiliate of American National Power, which is developing a power plant in Brookhaven. In addition, Islander East proposes to construct and operate approximately 5.6 miles of 24-inch pipeline from the Islander East mainline near Wading River, New York to a proposed power plant near Calverton, New York that is being developed by AES Endeavor, a division of AES Corporation. Further, Islander East seeks authority to construct and operate three metering stations and other appurtenant facilities. Islander East states that the capacity of the proposed pipeline is 285,000 Dth per day. The estimated cost of the facilities is approximately $149.6 million.

Islander East also seeks authorization to lease 285,000 Dth per day of capacity on Algonquin's C–1 and C–1 L systems for an initial term of 20 years. The fixed monthly lease payment under the lease agreement is $334,135. In addition, Islander East will pay a monthly operating and maintenance charge of $32,307. Islander East states that the monthly lease payment is less than what it would pay Algonquin for firm transportation service and thus meets Commission standards for lease payments.

Islander East proposes to provide open access firm and interruptible service under Rate Schedules FTS and ITS, respectively. Islander East will offer both negotiated and recourse rates. Islander East designed its recourse rate using he straight fixed-variable method. Islander East has also included a *pro forma* FERC Gas Tariff under which it will provide transportation service.

Islander East asserts that its project will provide the Connecticut, Long Island, and New York City markets with access to gas for: local distribution company growth, new gas-fired electric generating plants, and gas conversions. Further, Islander East states that its proposal is consistent with the Commission's statement of policy on certification of new interstate natural gas pipeline facilities. Islander East

requests a preliminary determination on non-environmental issues by December 31, 2001, and final certificate authorization by July 15, 2002. Islander East states that this will allow construction to be completed by its proposed in-service date of November 1, 2003.

Any questions regarding the application should be directed to Steven E. Tillman, Director of Regulatory Affairs, Islander East Pipeline Company, L.L.C., P.O. Box 1642, Houston, Texas 77251–1642 at 713–627–5113 or by facsimile at 713–627–5947.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before July 13, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be place don the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, 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.gov/documents/makeanelectronicfiling/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–16225 Filed 6–27–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–458–000]

Tennessee Gas Pipeline Company; Notice of Proposed Change in FERC Gas Tariff

June 22, 2001.

Take notice that on June 15, 2001, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Second Revised Tariff Sheet No. 175. Tennessee requests that the tariff sheet be made effective August 1, 2001.

Tennessee states that the purpose of Tennessee's tariff filing is to provide formal notice to Rate Schedule FT–G customers and the Commission that Tennessee intends to charge FT–G customers for both the transportation of ''swing'' volumes into and out of storage commenting August 1, 2001. Tennessee states that its Order No. 636 compliance filing in Docket No. RS92–23 contemplated that Tennessee would charge FT–G customers the applicable commodity rate and fuel for the transportation of ''swing'' volumes both into and out of storage. However, in setting up its billing system to implement the extensive changes required by Order No. 636, Tennessee inadvertently treated Rate Schedule FT–G customers the same as Rate Schedule FT–GS customers with respect to the transportation of storage ''swing'' volumes. In that regard, in Docket No. RS92–23, the Commission ruled that Tennessee could charge FT–GS customers only for transportation from customers' receipt points to their citygates. *Tennessee Gas Pipeline Co.,* 62 FERC ¶ 61,250, at 62,658 (1993).

As a result of administrative oversight, Tennessee set up its billing system so that FT–G customers would be billed for the transportation of storage ''swing'' volumes in the same manner as FT–GS customers. Specifically, when a customer scheduling deliveries to its citygate takes less than the scheduled quantity, the variance would be treated as a storage injection and the customer would pay the applicable commodity rate and fuel for transportation from the receipt point to the citygate; when the customer takes more than its scheduled quantity at the citygate, the variance would be treated as a storage withdrawal, but the customer would not be charged for the transportation of such storage withdrawal quantity from the storage field to the citygate. By the

instant tariff filing, Tennessee indicates its intent to commence charging FT–G shippers separately for the transportation of ''swing'' volumes to and from storage commencing August 1, 2001. Although Tennessee does not believe that a tariff filing is necessary to bill FT–G shippers in this manner, given the length of time that Tennessee has inadvertently not charged FT–G customers for the transportation of ''swing'' volumes both into and out of storage, Tennessee believes that it is appropriate to provide formal notice to its customers of its plans via a tariff filing.

Tennessee states that copies of the filing have been mailed to each of Tennessee's customers and the affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–16223 Filed 6–27–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1099–002, et al.]

Cleco Power LLC, et al. Electric Rate and Corporate Regulation Filings

June 21, 2001.

Take notice that the following filings have been made with the Commission:

1. Cleco Power LLC

[Docket No. ER01–1099–002]

Take notice that Cleco Power LLC (Cleco Power), on June 6, 2001, tendered for filing a letter requesting an additional 90 days to comply with the Commission's order in *Cleco Power LLC,* Docket Nos. ER01–1099–000 and ER01–1099–001, issued March 28, 2001, instructing Cleco Power to bring all of its tariffs, rate schedules and service agreements into compliance with the Commission's Order 614, issued March 31, 2000, by June 25, 2001.

By means of a merger, effective December 31, 2000, Cleco Utility reorganized its corporate form from that of a corporation to that of a limited liability company named Cleco Power LLC; this pursuant to the Commission's order in *Cleco Utility Group Inc.,* Docket No. EC00–142–000, issued November 30, 2000. Pursuant to the Commission's Order 614 and the March 28, 2000 Order, all of Cleco Utility's rate schedules are to be canceled; amended to reflect the Cleco Power name and to comply with Order 614; and refiled as Cleco Power rate schedules.

On June 1, 2001 Cleco Power canceled Cleco Utility's Open Access Transmission Tariff (OATT) and Market-Based Rates Tariff and submitted essentially the same OATT and Market-Based Rates Tariff as Cleco Power's tariffs. Cleco Power will cancel most of Cleco Utility's rate schedules and refile them as Cleco Power rate schedules by the June 25, 2001 deadline. However, Cleco Power requested an additional 90 days to file the following rate schedules as well as the service agreements under its OATT and Market-Based Rates Tariff:

RS1	RS6	RS17
RS2	RS12	RS18

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Wheelabrator Westchester, L.P.

[Docket No. ER98–3030–001]

Take notice that on June 18, 2001, Wheelabrator Westchester, L.P., formerly known as Westchester RESCO Company, L.P., (Westchester) a Qualifying Facility selling power at wholesale pursuant to market-based rate authority granted to it by the Federal Energy Regulatory Commission, tendered for filing an updated market power analysis in compliance with the Commission's June 18, 1998, letter order in Docket No. ER98–3030–000.

Questions concerning this filing may be directed to counsel for Westchester, Lawrence W. Plitch, 650 Grove Street, Newton Lower Falls, Massachusetts 02462–1319, Phone (617) 244–7491, Fax (617) 244–4878, e-mail *stratergy@mediaone.net.*

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Consumers Energy Company

[Docket No ER01–1587–002]

Take notice that on June 18, 2001, Consumers Energy Company (Consumers) tendered for filing under protest the following tariff sheets as part of its FERC Electric Tariff No. 6 and the following Service Agreement under its FERC Electric Tariff No. 6 in compliance with the May 17, 2001 order issued in this proceeding, First Revised Sheet Nos. 142 and 171 and Substitute Service Agreement No. 62. Copies of the filing were served upon the Michigan Public Service Commission and those on the official service list in this proceeding.

The sheets are to have an effective date of May 17, 2001. The Service Agreement is to have an effective date of March 21, 2001.

4. Illinois Power Company

[Docket No. ER01–1842–001]

Take notice that on June 18, 2001, Illinois Power Company, filed with the Commission a service agreement designation as required by Order No. 614 and the Letter Order issued on May 29, 2001 in this docket.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No. ER01–2340–000]

Take notice that on June 18, 2001, Arizona Public Service Company (APS) tendered for filing umbrella Service Agreements to provide Short-Term Firm and Non-Firm Point-to-Point Transmission Service to City of Burbank, Burbank Water and Power, and Axia Energy under APS' Open Access Transmission Tariff.

A copy of this filing has been served on City of Burbank, Burbank Water and Power, Axia Energy and the Arizona Corporation Commission.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Maine Public Service Company

[Docket No. ER01–2341–000]

Take notice that on June 18, 2001, Maine Public Service Company (Maine Public) filed an executed Service Agreement for Firm Point-To-Point Transmission Service under Maine

Public's open access transmission tariff with Axia Energy, LP.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket No. ER01–2342–000]

Take notice that on June 18, 2001, Maine Public Service Company (Maine Public) filed an executed Service Agreement for Non-Firm Point-To-Point Transmission Service under Maine Public's open access transmission tariff with Axia Energy, LP.

Maine Public requests that the enclosed agreement become effective on May 23, 2001.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Ameren Services Company

[Docket No. ER01–2343–000]

Take notice that on June 18, 2001, Ameren Services Company filed a notice of its cancellation of the Non-Firm Point-to-Point Transmission Service Agreement dated December 15, 1997. Notice of the proposed cancellation has been served upon the El Paso Merchant Energy, L.P., and the formerly Engage Energy US, L.P.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Ameren Services Company

[Docket No. ER01–2344–000]

Take notice on June 18, 2001, Ameren Services Company filed a notice of its cancellation of the Non-Firm Point-to-Point Transmission Service Agreement dated July 18, 2000. Notice of the proposed cancellation has been served upon the El Paso Merchant Energy, L.P and the formerly Engage Energy US, L.P.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Ameren Service Company

[Docket No. ER01–2345–000]

Take notice that on June 18, 2001, Ameren Services Company filed a notice of the cancellation of the Firm Point-to-Point Transmission Service Agreement dated July 18, 2000. Notice of the proposed cancellation has been served upon the El Paso Merchant Energy, L.P., and the formerly Engage Energy US, L.P.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Ameren Services Company

[Docket No. ER01–2346–000]

Take notice that on June 18, 2001, Ameren Services Company filed a notice of the cancellation of the Non-Firm Point-to-Point Transmission Service Agreement dated January 1, 1997. Notice of the proposed cancellation has been served upon Consumers Power Company d/b/a Consumers Energy Company, and The Detroit Edison Company.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Ameren Services Company

[Docket No. ER01–2347–000]

Notice is hereby given that effective as of March 31, 2001 the Firm Point-to-Point Transmission Service Agreement dated October 6, 1998 (Docket No. ER 99–311–000) filed with the Federal Energy Regulatory Commission by Ameren Services Company is to be canceled.

Notice of the proposed cancellation has been served upon the Consumers Energy Company and the Detroit Edison Company.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Pool

[Docket No. ER01–2348–000]

Take notice that on June 18, 2001, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to reimburse for certain customers participating in NEPOOL's approved Load Response Program the monthly costs for a required Internet-Based Communications System. The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

The Participants Committee requests an effective date of June 18, 2001.

Comment date: July 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–16220 Filed 6–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–230–000, et al.]

Metro Energy, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

June 20, 2001.

Take notice that the following filings have been made with the Commission:

1. Metro Energy, L.L.C.

[Docket No EG01–230–000]

Take notice that on June 15, 2000, Metro Energy, L.L.C., a Michigan limited liability company with its principal place of business at 425 South Main Street, Suite 201, Ann Arbor, Michigan 48107, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935 and Part 365 of the Commission's regulations.

Applicant is developing a 17 MW electric generating facility located in Wayne County, Michigan and will be engaged exclusively in the business of owning and operating the facility and selling electric energy at wholesale.

Comment date: July 11, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Mobile Energy, LLC, SkyGen Investors, LLC, InterGen (North America Inc., Tejas Power Generation LLC

[Docket No. EC01–117–000]

Take notice that on June 13, 2001, Mobile Energy LLC (Mobile), SkyGen Investors LLC (SkyGen), InterGen (North America) Inc. (InterGen), and Tejas Power Generation LLC (Tejas) (collectively, Applicants) submitted for filing an application under section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities in connection with the transfer of an equity interest in Mobile from InterGen's affiliate Tejas to SkyGen or its affiliate.

Comment date: August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Power Holdings USA Corporation, Occidental Chemical Corporation

[Docket No. QF01–106–000]

Take notice that on June 15, 2001, Entergy Power Holdings USA Corporation and Occidental Chemical Corporation (OxyChem) filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be an approximately 588 megawatt combined cycle cogeneration facility, primarily fired by natural gas (the Facility) and will be located in Convent, Louisiana. Thermal energy from the Facility will be used by OxyChem's chlor-alkali plant. The Facility will be owned by Convent Cogen, LLC. The Facility will be interconnected with the Entergy Louisiana, Inc. system.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Carolina Power & Light Company, Duke Energy Corporation, South Carolina Electric & Gas Company, GridSouth Transco, LLC

[Docket No. RT01–74–004]

Take notice that on June 15, 2001, Carolina Power & Light Company, Duke Energy Corporation, a behalf of GridSouth Transco, LLC, submitted an erratum to their May 14, 2001 supplemental filing. The erratum corrects Pro Forma Tariff Sheet No. 303 of the GridSouth Open Access Transmission Tariff.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER01–1677–002]

Take notice that on June 15, 2001, Public Service Company of New Mexico (PNM) tendered for filing a Compliance Filing in association with PNM's earlier filing (dated March 30, 2001) of its completely revised version of PNM's Open Access Transmission Tariff (OATT) to: (1) Incorporate a new Attachment J—Generator Interconnection Procedures, a new Attachment J–1—Request for Interconnection of Generation With The PNM Transmission System, and a new Attachment K—Index of Interconnection Service Customers; and (2) conform its OATT to FERC Order No. 614 Identification and Numbering requirements. PNM's Compliance Filing incorporates certain changes to the new Generator Interconnection Procedure identified in the Commission's May 16, 2001 Order Conditionally Accepting Amended Tariff, 95 FERC 61,214. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to all PNM Tariff customers, all entities that have pending interconnection requests with PNM and the New Mexico Public Regulation Commission.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Reliant Energy Services, Inc., Reliant Energy Coolwater, LLC, Reliant Energy Ellwood, LLC, Reliant Energy Etiwanda, LLC, Reliant Energy Mandalay, LLC, and Reliant Energy Ormond Beach, LLC

[Docket Nos. ER99–1801–005, ER99–2082–002, ER99–2081–002, ER99–2083–002, ER99–2080–002 and ER99–2079–002]

Take notice that on June 15, 2001, Reliant Energy Coolwater, LLC, Reliant Energy Ellwood, LLC, Reliant Energy Etiwanda, LLC, Reliant Energy Mandalay, LLC, Reliant Energy Ormond Beach, LLC and Reliant Energy Services, Inc. tendered for filing an updated market study in compliance with the Commission's Orders in Ormond Beach Power Generation, L.L.C., 83 FERC (CCH) 61,306 (1998); Ocean Vista Power Generation, L.L.C., et al., 82 FERC. (CCH) 61,114 (1998); NorAm Energy Services, Inc., Letter Order, Docket No. ER94–1247–000 (July 25, 1994) and the Notice of Extension of Time issued in these dockets on May 29, 2001.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket No. ER00–1053–005]

Take notice that on June 15, 2001, pursuant to Section 2.4 of the Settlement Agreement filed on June 30, 2000, in Docket No. ER00–1053–000, and accepted by the Federal Energy Regulatory Commission on September 15, 2000, Maine Public Service Company (MPS) submits this informational filing setting forth the changed open access transmission tariff charges effective June 1, 2001 together with back-up materials.

Copies of this filing were served on the parties to the Settlement Agreement in Docket No. ER00–1053–000, the Commission Trial Staff, the Maine Public Utilities Commission, the Maine Public Advocate, and current MPS open access transmission tariff customers.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Ameren Energy Marketing Company

[Docket No. ER01–7–001]

Take notice that on June 15, 2001, Ameren Energy Marketing Company (AEM) submitted the compliance filing required by the Commission's December 12, 2000 order in Docket No. ER01–7–000. Copies of this filing were served on all parties included on the Commission's official service list established in this proceeding.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Central Vermont Public Service Corporation

[Docket No. ER01–2153–001]

Take notice that on June 15, 2001, Central Vermont Public Service Corporation (Central Vermont), tendered for filing an executed Service Agreement for Non-Firm Point-to-Point Transmission Service with Citizens Communications Company (Service Agreement) under Central Vermont's FERC Electric Tariff, First Revised Volume No. 7. The Service Agreement was refiled because the cover page for the Service Agreement was inadvertently omitted from the May 29, 2001 filing in this docket. Copies of the filing were served upon the above-mentioned company and the Vermont Public Service Board.

Central Vermont requests an effective date of May 29, 2001.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Idaho Power Company

[Docket No. ER01–2316–000]

Take notice that on June 14, 2001, Idaho Power Company filed a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Delivery and Idaho Power Marketing, under its open access transmission tariff in the above-captioned proceeding.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. American Electric Power Service Corporation

[Docket No. ER01–2322–000]

Take notice that on June 15, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing blanket Service Agreements for new customers and replacement blanket Service Agreements for existing customers under the AEP Companies' Power Sales Tariffs. The Power Sales Tariffs were accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5 (Wholesale Tariff of the AEP Operating Companies) and FERC Electric Tariff Original Volume No. 8, Effective January 8, 1998 in Docket ER 98–542–000 (Market-Based Rate Power Sales Tariff of the CSW Operating Companies). A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

AEPSC respectfully requests waiver of notice to permit this service agreement to be made effective on or prior to May 16, 2001.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Company

[Docket No. ER01–2323–000]

Take notice that on June 15, 2001, Arizona Public Service Company (APS) tendered for filing umbrella Service Agreements to provide Short-Term Firm and Non-Firm Point-to-Point Transmission Service to Western Area Power Administration—Colorado River Storage Project under APS'' Open Access Transmission Tariff.

A copy of this filing has been served on Western Area Power Administration Colorado River Storage Project and the Arizona Corporation Commission.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power & Light Co.

[Docket No. ER01–2324–000]

Take notice that on June 15, 2001, Florida Power & Light Company (FPL) filed as Service Agreement Nos. 178 and 179 under its Open Access Transmission Tariff, two System Impact Study Agreements, one with Seminole Electric Cooperative, Inc. and one with FPL's merchant function. FPL requests that these System Impact Study Agreements be made effective on May 31 and 17, 2001, respectively.

FPL requests that the Agreement with Seminole be made effective as of May 31, 2001 and that the Agreement with FPL's merchant function be made effective as of May 17, 2001.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. PJM Interconnection, L.L.C

[Docket No. ER01–2327–000]

Take notice that on June 15, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing an amendment to section 17.8 of the PJM Open Access Transmission Tariff. The proposed amendment changes the deadline for reservations of daily, firm point-to-point transmission service from noon on the second day prior to commencement of service to noon on the day prior to the commencement of service. Copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM control area.

PJM requests an effective date of June 18, 2001.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Ohio Valley Electric Corporation

[Docket No. ER01–2328–000]

Take notice that on June 15, 2001, Ohio Valley Electric Corporation (OVEC) tendered for filing Modification No. 14, dated as of April 1, 2001, to the Inter-Company Power Agreement dated July 10, 1953 among OVEC and certain other utility companies named within that agreement as Sponsoring Companies (the Inter-Company Power Agreement). The Inter-Company Power Agreement bears the designation Ohio Valley Electric Corporation Rate Schedule FERC No. 4.

Mod. No. 14 is part of an arrangement intended to resolve certain issues that have arisen as a result of DOE's notice of cancellation of the power agreement between OVEC and the United States of America, currently acting by and through the Secretary of Energy, the statutory head of the United States Department of Energy (DOE) (the DOE Power Agreement). Mod. No. 14 to the Inter-Company Power Agreement is intended to allocate to the Sponsoring Companies shares of demand, energy and costs related to additional facilities and replacements, which will no longer be payable by DOE as a result of DOE's release of capacity and energy to the Sponsoring Companies and other arrangements related to DOE's notice of cancellation of the DOE Power Agreement.

OVEC has requested that the changes to the Inter-Company Power Agreement become effective as of June 1, 2001.

Copies of the filing were served upon Allegheny Energy Supply Company, L.L.C., Appalachian Power Company, The Cincinnati Gas & Electric Company, Columbus Southern Power Company, The Dayton Power and Light Company, FirstEnergy Generation Corp., Indiana Michigan Power Company, Kentucky Utilities Company, Louisville Gas and Electric Company, Monongahela Power Company, Ohio Edison Company, Ohio Power Company, Pennsylvania Power Company, The Potomac Edison Company, Southern Indiana Gas and Electric Company, The Toledo Edison Company, West Penn Power Company, the Utility Regulatory Commission of Indiana, the Public Service Commission of Kentucky, the Public Service Commission of Maryland, the Public Service Commission of Michigan, the Public Utilities Commission of Ohio, the Public Utility Commission of Pennsylvania, Tennessee Regulatory Authority, the State Corporation Commission of Virginia and the Public Service Commission of West Virginia.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Progress Energy, On Behalf of Florida Power Corporation

[Docket No. ER01–2330–000]

Take notice that on June 15, 2001, Florida Power Corporation (FPC) filed a Service Agreement with The City of Homestead under FPC's Cost-Based Rates Tariff (CR–1), FERC Electric Tariff No. 9. A copy of this filing was served upon the Florida Public Service Commission.

FPC is requesting an effective date of July 1, 2001 for this Agreement.

Comment date: July 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Old Dominion Electric Cooperative

[Docket No. ER01–2331–000]

Take notice that on June 15, 2001, Old Dominion Electric Cooperative

(Applicant) filed an Application Submitting Service Agreement Pursuant to Market-Based Rate Authority And Request For Waivers, submitting a Service Agreement between the Applicant and Southside Electric Cooperative for service to a single, new delivery point pursuant to the Applicant's previously granted authority to make sales at market-based rates.

Ol Dominion requests an effective date of May 18, 2001.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. PJM Interconnection, L.L.C.

[Docket No. ER01–2332–000]

Take notice that on June 15, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing an amendment to the PJM 2001–2002 Load Response Pilot Program attachment to Schedule 1 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. (Operating Agreement) and to the Appendix to Attachment K of the PJM Open Access Transmission Tariff (Tariff). The proposed amendment modifies Option 1: Emergency Load Response Program (Emergency Program) to provide that those entities that become Special Members of PJM solely to participate in the Emergency Program will not be subject to the provisions of the Operating Agreement that assess liability to PJM Members. Copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM control area.

PJM requests an effective date of June 1, 2001, corresponding to the effective date of the Emergency Program.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Oklahoma Gas and Electric Company

[Docket No. ER01–2333–000]

Take notice that on June 15, 2001, Oklahoma Gas and Electric Company (OG&E) filed to cancel its Electric Service Agreement with City Water and Light Plant of the City of Jonesboro, Arkansas, which has been designated OG&E Rate Schedule FERC No. 132, pursuant to Section 35.15 of the Federal Energy Regulatory Commission's (Commission) regulations. This filing has been served upon the affected purchaser.

OG&E requests acceptance of its notice and waiver of the 60-day notice requirement to permit the cancellation to become effective June 15, 2001, or such later date as authorized by the Commission.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Southern Company Services, Inc.

[Docket No. ER01–2334–000]

Take notice that on June 15, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company (APC), tendered for filing an Interconnection Agreement (IA) by and between APC and Tenaska Alabama III Partners, L.P. (Tenaska). The IA allows Tenaska to interconnect its generating facility to be located in Coosa County, Alabama, to APC's electric system.

An effective date of June 15, 2001 has been requested.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Duke Energy Vermillion, LLC

[Docket No. ER01–2335–000]

Take notice that on June 15, 2001, Duke Energy Vermillion, LLC (Duke Vermillion) submitted for filing an amendment to Service Agreement No. 1 under Duke Vermillion's FERC Electric Tariff, Original Volume No. 1.

Duke Vermillion requests an effective date for the amendment of June 1, 2001.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Consumers Energy Company

[Docket No. ER01–2336–000]

Take notice that on June 15, 2001 Consumers Energy Company (Consumers) tendered for filing a Service Agreement with Mirant Americas Energy Marketing, LP, (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Southern California Edison Company

[Docket No. ER01–2337–000]

Take notice that on June 15, 2001, Southern California Edison Company (SCE) tendered for filing revisions to the Amended and Restated Radial Lines Agreement (Amended Agreement) between SCE and AES Huntington Beach L.L.C. (AES).

The revisions to the Amended Agreement reflect the removal of one set of failed Coupling Capacitor Voltage Transformers (''CCVTs'') installed on the Ellis No. 1 Line at the Huntington Beach Substation and installation of new CCVTs, which were placed into service on April 6, 2001.

Copies of this filing were served upon the Public Utilities Commission of the State of California and AES.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Duke Energy Madison, LLC

[Docket No. ER01–2338–000]

Take notice that on June 15, 2001, Duke Energy Madison, LLC (Duke Madison) submitted for filing an amendment to Service Agreement No. 1 under Duke Madison's FERC Electric Tariff, Original Volume No. 1.

Duke Madison requests an effective date for the amendment of June 1, 2001.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Puget Sound Energy, Inc.

[Docket No. ER01–2339–000]

Take notice that on June 15, 2001, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a service agreement for Firm Point-To-Point Transmission Service and a service agreement for Non-Firm Point-To-Point Transmission Service with Avista Energy, Inc. (Avista), as Transmission Customer.

PSE respectfully requests that the service agreement become effective as of June 18, 2001.

A copy of the filing was served upon Avista.

Comment date: July 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call

202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–16221 Filed 6–27–01; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–141–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Availability of the Availability of the Environmental Assessment for the Proposed 2002 Expansion Project

June 22, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by PG&E Gas Transmission, Northwest Corporation (PG&ENW) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the following proposed natural gas facilities:

- About 21 miles of 42-inch-diameter pipeline loop adjacent to PG&ENW's existing permanent right-of-way at about mileposts (MP) 87.6 through 108.3 in Kootenia County, Idaho and Spokane County, Washington (Loop C). Loop C would be the third pipeline on PG&ENW's transmission system;
- Various piping, blowdown, and valving additions at Main Line Valve (MLV) 5–1; and one new pig receiver and blowdown additions at MLV 5–2;
- One new 19,500 horsepower (hp) gas-fueled turbine and centrifugal compressor; construction of three new buildings; and installation of replacement standby generator at Compressor Station 4 in Bonner County, Idaho;
- Two new pig launchers, and tie-in facilities of the proposed loop at Compressor Station 5 in Kootanai County, Idaho;
- One new 19,500 gas-fueled turbine and centrifugal compressor; construction of one new building; install one new pig receiver; and replacement of a standby generator at Compressor Station 6 in Spokane County, Washington;
- One new 19,500 hp gas-fueled turbine and centrifugal compressor; construction of one new building; and installation of additional gas cooling facilities and one standby generator at Compressor Station 8 in Walla Walla County, Washington;
- One new 19,500 hp gas-fueled turbine and centrifugal compressor; construction of two new buildings; and relation of gas coller and installation of a replacement standby generator at Compressor Station 10 in Sherman County, Oregon; and
- One new 19,500 hp gas-fueled turbine and centrifugal compressor; construction of three new buildings; relocation of one building and gas cooler; installation of a additional gas cooling facilities; and replacement of one standby generator at Compressor Station 12 Deschutes County, Oregon.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Group 1, PJ11.1.
- Reference Docket No. CP01–141–000; and
- Mail your comments so that they will be received in Washington, DC on or before July 23, 2001.

Comments, protests and interventions may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

Comments will be considered by the Commission but will not serve to make the commenter a party to the proceeding. Any persons seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.gov) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 01–16226 Filed 6–27–01; 8:45 am]

BILLING CODE 6717–01–M

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. P–2060–005, P–2084–020, P–2320–005 and P–2330–007]

Carry Falls Upper Raquette River Middle Raquette River Lower Raquette River; Notice of Meetings

June 22, 2001.

a. *Date and Times of Meetings:* July 30, 2001, 1 pm to 5 pm; July 31, 2001, 9 am to 5 pm.

b. *Place:* St. Regis Mohawk Tribe Reservation, Community Building, Route 37, Hogansburg, Franklin County, New York.

c. *FERC Contact:* James T. Griffin at (202) 219–2799; e-mail address: james.griffin@ferc.fed.us.

d. *Purpose of the Meetings:* To discuss issues arising under Section 106 of the National Historic Preservation Act with respect to the proposed re-licensing of the following Erie Boulevard Hydropower L.P. Projects: Carry Falls Project No. 2060–005, Upper Raquette River Project No. 2084–020, Middle Raquette River Project No. 2320–005, and Lower Raquette River Project No. 2330–007.

e. *Proposed Agenda:*

July 30: Site visit to Raymondville, Norfolk, East Norfolk, Norwood, and Higley hydroelectric developments, all located on the Raquette River in St. Lawrence County, New York.

July 31: section 106 issues discussion.

f. All local, state, and Federal agencies, Indian Tribes, and interested parties, are hereby invited to attend this meeting as participants.

David P. Boergers,

Secretary.

[FR Doc. 01–16222 Filed 6–27–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7004–2]

Announcement of the Board of Trustees for the National Environmental Education and Training Foundation, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The National Environmental Education and Training Foundation was created by Public Law 101–619, the National Environmental Education Act of 1990. It is a private 501(c)(3) non-profit organization established to promote and support education and training as necessary tools to further environmental protection and sustainable, environmentally sound development. It provides the common ground upon which leaders from business and industry, all levels of government, public interest groups, and others can work cooperatively to expand the reach of environmental education and training programs beyond the traditional classroom. The Foundation supports a grant program that promotes innovative environmental education and training programs; it also develops partnerships with government and other organizations to administer projects that promote the development of an environmentally literal public.

The Administrator of the U.S. Environmental Protection Agency, as required by the terms of the Act, announces the following three appointments to the National Environmental Education and Training Foundation, Inc. Board of Trustees. The appointees are Thomas M. Ferguson, Chairman and CEO of the First Stanford Corporation; Dorothy P. McSweeny, former Foreign Service Officer, Agency for International Development; and Judge William S. Sessions, former Director of the Federal Bureau of Investigation. These appointees will join the current Board member which include: Walter Higgins, Chairman, President and C.E.O, Sierra Pacific Resources; James Donnelley, Stet & Query Limited Partnership; Dwight Minton, Chairman Emeritus, Church & Dwight; Braden Allenby, Vice President, Environment, Health and Safety, AT&T; Richard Bartlett, Vice Chairman, Mary Kay Holding Corporation; Susan Clark-Johnson, Chairman and CEO, Phoenix Newspapers, Inc.; Dorothy Jacobson, Consultant; Karen Bates Kress, President, KBK Consulting, Inc.; Fred Krupp, Executive Director, Environmental Defense Fund; and, Dennis Wheeler, Chairman, President and C.E.O, Coeur d'Alene Mines Corporation.

Great care has been taken to assure that these new appointees not only have the highest degree of expertise and commitment, but also bring to the Board diverse points of view relating to environmental education and training. These appointments shall be for a period of four years.

Appointee Biographies

Thomas M. Ferguson has, since 1993, served as Director, Chairman, President and CEO of Le@p Technology, Inc., formally Seal Holdings Corporation, a publicly traded holding company focused on the acquisition and development of companies providing services in healthcare and life sciences. Within these fields, Le@p has a particular interest in information technology companies with Internet applications, engaging exclusively in friendly transactions developed in cooperation with a company's management, shareholders and board of directors. Since 1992, he has served First Sanford Corporation in Palm Beach, Florida, a private advisory company for maritime transactions and the development of strategic business/financial plans for national and international companies, as a Director, Chairman and President. Mr. Ferguson serves as a Director of Chamber Companies, LLC. He is the sole stockbroker of First Magnum Corporation, and its sole director and officer. Mr. Ferguson received a BA degree from Florida State University.

Dorothy McSweeny, an oral historian, is a former Foreign Service Officer of the Agency for International Development. She is Chair for Community Development of the National Symphony Orchestra, Chair of Community Program of the Washington Ballet, and Vice-Chair of the D.C. Commission on Arts and the Humanities. Mrs. McSweeny serves on the boards of the National Wildflower Research Center, the Discovery Creek Washington Children's Museum, and the Boston University School of Medicine. Mrs. McSweeny is Vice President of the Environmentors board.

William S. Sessions, Director of the Federal Bureau of Investigations from 1987 to 1993, is currently an attorney in private practice in San Antonio, Texas. He is a member of the Martin Luther King, Jr. Federal Holiday Commission, President of the District Judges Association of the 5th Circuit, Chairman of the Ethics Committee of the Federal Bar Association, and a member of the Executive Committee of Interpol. Judge Sessions was honored as the National Fathers Day Committee Father of the Year.

Dated: June 21, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–16293 Filed 6–27–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

June 13, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 30, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0626.

Title: Regulatory Treatment of Mobile Services.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 100 respondents; 540 responses.

Estimated Time Per Response: .50 hours to 2 hours.

Frequency of Response: On occasion and annual reporting requirement, and recordkeeping requirement.

Total Annual Burden: 5,825 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission released a Report and Order (63 FR 68904) which consolidated, revised, and streamlined the Commission's rules governing license application procedures for radio services licensed by the Wireless Telecommunications Bureau (WTB). This Report and Order also adopted new consolidated application forms which enable all wireless licensees and applicants to file applications electronically using the Universal Licensing System (ULS). (The individual application forms have separate OMB approval.) The actions in this proceeding eliminated a large number of unnecessary rules and duplicative forms. The information requested provides the Commission with technical, operational and licensing data for private mobile radio service licensees that have been reclassified as commercial mobile radio service providers. This information is necessary to ensure that licensees comply with the Commission's technical, operational and licensing rules.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–16240 Filed 6–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

June 19, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0986.

Expiration Date: 12/31/2001.

Title: Federal State Joint Board on Universal Service Plan for Reforming the Rural Universal Support Mechanism, CC Docket No. 96–45.

Form No.: N/A.

Respondents: Business or other for-profit; State, Local or Tribal Government.

Estimated Annual Burden: 7099 respondents; .81 hours per response (avg.); 5770 total annual burden hours (for all collections approved under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Quarterly; Annually; One-time Requirement; Third Party Disclosure.

Description: In the Fourteenth Report and Order, Twenty-Second Order on Reconsideration in CC Docket No. 96–45 and Report and Order in CC Docket No. 00–256, released May 23, 201 (FCC 01–157), consistent with the recommendation of the Federal-State Joint Board on Universal Service (Joint Board), the Commission adopts rules for determining high-cost universal service support for rural telephone companies for the next five years based upon the proposals made by the Rural Task Force. The Commission also addresses certain proposals made by the Multi-Association Group (MAG) for reforming universal services rules applicable to rural carriers. As part of its proposal to reform the federal universal service support mechanism for rural carriers, the Rural Task Force proposed that rural carriers be permitted to depart from study area averaging and instead disaggregate and target per-line high-cost universal service support, including high-cost loop support, LTS, and LSS, into geographic areas below the study area level. The Rural Task Force concluded that the disaggregation and targeting of support is necessary to eliminate the economic distortions that may result from the delivery of support on a uniform per-line basis under the current mechanism. At the same time, however, the Rural Task Force stated that rural carriers need flexibility in the manner in which support is disaggregated and targeted in light of the widely varying characteristics and operating environments of rural carriers. Recognizing that a disaggregation and targeting system must meet the unique regulatory and competitive environments in each state, the Rural Task Force recommended a disaggregation system consisting of three paths. a. Election of Disaggregation Plan and Change in Path: Carriers are required to elect one of three paths within 270 days of the effective date of the Order implementing rural high-cost

reform through a submission to the state commission. Rural carriers not subject to the jurisdiction of the state are required to make such submission to the Commission. Carriers failing to do who will not be permitted to disaggregate and target support unless ordered to do so by a state commission or other appropriate regulatory authority either on its own motion or in response to a request by an interested party. See 47 CFR 54.315(a). (*Number of respondents:* 1300; *hours per response:* .5 hours; *total annual burden:* 650 hours). b. Notification of Disaggregation Methodology: 1. Path One: Carriers Not Disaggregating and Targeting High-Cost Support. Path One provides that a carrier may choose not to disaggregate. This Path is intended to address those instances where a carrier determines that given the demographics, cost characteristics, and location of its service territory, and the lack of a realistic prospect of competition, that disaggregation is not economically rational. A carrier must certify to the state commission, or other appropriate regulatory authority, that it does not want to disaggregate support. Carriers electing Path One must submit to USAC a copy of the certification of the state commission or appropriate regulatory authority certifying that it will not disaggregate and target support. See 47 CFR 54.315(b). (*No. of respondents:* 500; *hours per response:* .5 hours; *total annual burden:* 250 hours).2. Path 2: Carriers Seeking Prior Regulatory Approval for the Disaggregation and Targeting of Support. Path Two provides that a carrier may seek approval of its disaggregation and targeting plan from the appropriate regulatory authority. Because there are no constraints on disaggregation and targeting proposals under this path, for example a carrier could disaggregate and target support to multiple levels below a wire center, a disaggregation and targeting method can be tailored with precision, subject to state approval, to the cost and geographic characteristics of the carrier and the competitive and regulatory environment in which it operates. A carrier that chooses this path would file a disaggregation plan with the state commission, or other appropriate regulatory authority. Carriers selecting Path 2 must submit a copy to USAC of the Order approving the disaggregation plan submitted by the carriers to the state commission or appropriate regulatory authority and a copy of the disaggregation plan approved by the state commission or appropriate regulatory authority. See 47 CFR 54.315(c), (e), and (f). (*No. of respondents:* 873; *hours per response:* .666 hours; *total annual burden:* 582 hours). 3. Path 3. Self-Certification of the Disaggregation and Targeting of Support: The Commission adopts the Path Three self-certification process that permits carriers to choose (1) a disaggregation plan of up to two cost zones per wire center, or (2) a disaggregation plan that complies with a prior regulatory determination. A carrier must provide, among other things, the state and USAC with a description of the rationale used to disaggregate support, including the methods and data and a discussion of how the plan complies with the self-certification guidelines. In addition, if the plan uses a benchmark, it must be generally consistent with how the total study area level of support for each category of costs (high-cost loop support, LSS and LTS) is derived, to enable a competitor to compare the disaggregated costs used to determine support for each zone. See 47 CFR 54.315(d), (e) and (f). (*No. of respondents:* 873; *hours per response:* .666 hours; *total annual burden:* 582 hours). c. Reporting Working Loops at Cost-Zone Level: Rural carriers that elect to disaggregate and target per-line support under either Path Two or Three are required to report loops at the cost-zone level. If there is no competition in the service area the carrier is required to file annually. If competition exists in the service are than the carrier is required to file quarterly. See 47 CFR 54.307(b) and (c). (*No. of respondents:* 864 filing annually; 9 filing quarterly; *hours per response:* 2 hours; *total annual burden:* 1746 hours). d. State Certification Letter Under 254(e):

The Commission also concludes that states should be required to file annual certifications with the Commission to ensure that carriers use universal service support ''only for the provision, maintenance and upgrading of facilities and services for which the support is intended'' consistent with section 254(e). The Commission concludes that the mandate in section 254(e) applies to all carriers, rural and non-rural, that are designated as eligible to receive support under section 214(e) of the Act. States that wish to receive federal universal service high-cost support for rural carriers within their boundaries to file a certification with the Commission and USAC stating that all federal high-cost funds flowing to rural carriers in that state will be used in a manner consistent with section 254(e). The Commission recognizes that some state commissions may have only limited regulatory oversight to ensure that federal support is reflected in intrastate rates. In the case of non-rural carriers, the Commission concluded that states nonetheless may certify to the Commission that a non-rural carrier in the state had accounted to the state commission for its receipt of federal support, and that such support will be used ''only for the provision, maintenance and upgrading of facilities and services for which the support is intended.'' The Commission determined that, in states in which the state commission has limited jurisdiction over such carriers, the state need not initiate the certification process itself. Instead, non-rural local exchange carriers, and competitive eligible telecommunications carriers serving lines in the service area of the non-rural local exchange carriers, may formulate plans to ensure compliance with section 254(e), and present those plans to the state, so that the state may make the appropriate certification to the Commission. Absent the filing of such certification, carriers will not receive support. See 47 CFR 54.313(b) and 54.314. (*No. of respondents:* 60 respondents; *hours per response:* 3 hours; *total annual burden:* 180 hours). e. Support in Competitive Study Areas: Under our existing rules, rural carriers and their competitors currently are required to file line count data annually, and may file quarterly updates on a voluntary basis. Quarterly updates are required in non-rural carrier study areas. Under the current rules, if an incumbent rural carrier does not update its line count data but its competitor does, the competitor's more recent data may include lines captured from the incumbent since the incumbent's last filing. Thus the incumbent may continue to receive support for the year based on an overstated number of lines. To prevent an overpayment of support, the Commission requires the filing of line count data on a regular quarterly basis upon competitive entry in rural carrier study areas. The Commission emphasizes that this requirement will not apply in rural carrier study areas in which an eligible telecommunications carrier has not been designated. See 47 CFR 36.611 and 36.612. To ensure that the interval between the submission of data and receipt of support is as short as possible in rural carrier study areas, the Commission clarifies that competitive eligible telecommunications carriers may submit initial line count data and receive support on a regular quarterly basis under section 54.307(c). Rural telephone companies that incorporate

acquired exchanges into existing study areas should exclude the costs associated with the acquired exchanges from the cost associated with the pre-acquisition study areas in annual universal service data a submissions used to determine eligibility for high-cost loop supports. Acquiring rural carriers shall separately provide the information listed in section 47 CFR 36.611 for both acquired and existing exchanges, as if these two categories of exchanges constitute separate study areas. See 47 CFR section 36.611. (*No. of respondents:* 20; *hours per response:* 24 hours; *total annual burden:* 480 hours). f. Safety Net Additive: Safety net additive support would only be available in years in which support levels would otherwise exceed the new indexed cap on the high-cost loop support fund. To receive such support in a particular study area, a carrier would need to show that growth in telecommunications plant in service (TPIS) per line is at least 14 percent greater than the study area's TPIS per line in the prior year, or the ''base year.'' Any study area that initially qualifies for safety net additive support would also qualify for such support in each of the four succeeding years if the cap is again triggered, regardless of whether the study area meets the 14 percent criterion in the succeeding years. Carriers must provide written notice to the Commission and USAC in conjunction with their annual or quarterly submissions to NECA indicating that a study area meets the 14 percent TPIS trigger. If a carrier should fail to provide written notification to the Commission and USAC, the study area that otherwise would have qualified for safety net additive will not be eligible. See 47 CFR 36.605(c)(2). (*No. of respondents:* 1300; *hours per response:* .5 hours; *total annual burden:* 650 hours). g. Safety Valve: Once relevant regulatory approvals are obtained and the transaction is closed, the rural carrier shall provide written notice to USAC that they have acquired access lines that may become eligible for safety value support. In order to assist USAC in the administration of the safety valve mechanism, rural carriers shall also provide written notice to USAC of when their index year has been established for purposes of calculating eligibility for safety valve support. See 47 CFR 54.305 (f). (*No. of respondents:* 1300; *hours per response:* .5 hours; *total annual burden:* 650 hours). The Commission will use the information requirements to determine whether and to what extent rural telecommunications carriers providing the data are eligible to receive universal service support. Obligation to respond: Required to obtain or retain benefits.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–16241 Filed 6–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 01–1458]

Common Carrier Bureau Seeks Comment on Translation of Cost Model to Delphi Computer Language and Announces Posting of Updated Cost Model

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In a Public Notice in this proceeding released on June 20, 2001, the Common Carrier Bureau sought comment on translation of the forward-looking cost model to Delphi computer language and announced the posting of an updated Turbo-Pascal version of the cost model on the Commission's web site.

DATES: Comments are due on or before August 13, 2001. Reply comments are due on or before August 27, 2001.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: Katie King or Thomas Buckley, Attorneys, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400 TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: In the Fifth Report and Order, 63 FR 63993, October 28, 1998, the Commission adopted a forward-looking cost model to be used in determining federal high-cost universal service support for non-rural carriers. To date, the model has been in Turbo-Pascal computer language. Commission staff have translated the model from Turbo-Pascal language into Delphi computer language. In this document, the Common Carrier Bureau announces the posting of the current forward-looking cost model in Delphi computer language and seeks comment on whether it should use the Delphi version for purposes of calculating support amounts for 2002.

The Delphi version can be found on the Commission's Web site (*www.fcc.gov/ccb/apd/hcpm*). The Delphi version of the forward-looking cost model is a beta version that will continue to be refined and updated as the Commission staff and interested parties work with it. In an effort to use a computer language that works best for the Commission and all interested parties, this document seeks comment on advantages of the Delphi version over the Turbo-Pascal version, and recommendations concerning improvements to the Delphi version.

In this document, the Common Carrier Bureau also announces the posting of a separate, updated Turbo-Pascal version of the cost model on the Commission's Web site (*www.fcc.gov/ccb/apd/hcpm*) that contains minor programming changes to the model and source codes that were necessary for the purpose of using the updated line count data. On December 8, 2000, the Commission decided to use the year-end 1999 line counts filed July 31, 2000, as input values for estimating average forward-looking costs and determining support for the year 2001. Because the year-end 1999 line count data in large part remains subject to a protective order, the posted version of the model contains the 1998 line count data that has already been made available to the public. Parties that wish to work with the year-end 1999 line count data should contact the Universal Service Administrative Company (USAC) and must adhere to the procedures set forth in the Commission's protective order.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: comments are due on or before August 13, 2001, and reply comments are due on or before August 27, 2001. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail

comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street SW., Room 5–A422, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037.

Pursuant to § 1.1206 of the Commission's Rules, this proceeding will continue to be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

Katherine L. Schroder,

Division Chief, Accounting Policy Division.

[FR Doc. 01–16237 Filed 6–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Draft 2001–2006 Strategic Plan

ACTION: Request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC), in accordance with the requirements of the Government Performance and Results Act of 1993, has developed a draft of its 2001–2006 Strategic Plan. The FDIC is now soliciting for consideration the views and suggestions of stakeholders potentially affected by or interested in this plan.

The draft strategic plan covers a five-year period and provides a framework for implementing the agency's mission of contributing to stability and public confidence in the nation's financial system. This is accomplished through the FDIC's three major program areas—Insurance, Supervision, and Receivership Management—that work to achieve the following results:

- Protection of insured depositors from loss, without recourse to taxpayer funding,
- Safety and soundness of insured depository institutions,
- Protection of consumers' rights and the investment by FDIC-supervised institutions in their communities, and
- Recovery to creditors of receiverships.

The plan can be reviewed on the FDIC's website, http://www.fdic.gov, in the ''About FDIC'' section.

Printed copies may be obtained from the FDIC Public Information Center by calling 1–800–276–6003 (202–416–6940 within the Washington metropolitan area) or sending electronic mail to *PublicInfo@FDIC.gov.*

DATES: The comment period closes July 31, 2001.

ADDRESSES: Interested parties are invited to submit their written comments to: FDIC—Division of Finance, Business Planning Section, Room 536, 801 17th Street, NW, Washington, DC 20434 or Internet E-mail: *StrategicPlan@FDIC.gov*

FOR FURTHER INFORMATION CONTACT: Gordon A. Goeke at the addresses identified above.

Dated at Washington, DC, this 22nd day of June, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–16321 Filed 6–27–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 28, 2001 at 10 a.m. The starting time has been changed to 2 p.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: Meeting open to the public.

PERSON TO CONTACT FOR INFORMATION: Ron Harris, Press Officer, Telephone (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–16397 Filed 6–26–01; 10:55 am]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01107]

Environmental Health Epidemiology Program for Latin American and Caribbean Countries; 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 a cooperative agreement with the Pan American Health Organization (PAHO). This program addresses the ''Healthy People 2010'' focus area of Environmental Health.

The purpose of the program is to further develop and establish an environmental health epidemiology, surveillance, and laboratory program for the Latin American and Caribbean countries.

The objectives are to: Collaborate with Latin American and Caribbean countries (LAC) in the conduct of environmental epidemiology studies of populations exposed to environmental contaminants and other harmful agents.

Provide instruction and training to enhance the development of information systems to promote epidemiologic and environmental surveillance in the LAC.

Promote and enhance environmental laboratories for environmental surveillance and exposure assessment; promote and enhance development of methodology for assessment of exposure of populations to environmental contaminants.

Promote and enhance environmental health risk communication in the LAC region.

Work with collaborating centers to implement training programs in the LAC region, and provide access to other existing programs, including those delivered by distance learning approaches.

Implement global environmental health programs that address strategic issues, such as the Children's Health and Environment in Latin America and the Caribbean (CHELAC) initiative.

No human subjects research will be supported under this cooperative agreement.

B. Eligible Applicant

Assistance will be provided only to the Pan American Health Organization. No other applications are solicited.

The Pan American Health Organization is the most appropriate

and qualified agency to provide the services specified under this cooperative agreement because:

PAHO coordinates international health activities for countries and territories of Latin America and the Caribbean. Their access to member States (Latin American and Caribbean countries) and their public health programs is unique in this region.

PAHO has the lead in advancing environmental public health in Latin America and the Caribbean. PAHO is the only organization serving Latin America and the Caribbean with a focus on the health impact of agricultural and industrial development. PAHO provides epidemiologic and toxicologic risk assessment and support required for the prevention of health risks associated with toxic wastes and their air and water pollution byproducts, food contamination, and other environmental health and occupational hazards and diseases.

PAHO has long standing expertise in regional disease surveillance, application of technology in different settings, development of training methods for health personnel, use of research to clarify and resolve health problems, and integration of different health programs to achieve maximum efficiency and effectiveness.

The proposed program is strongly supportive of and directly related to the achievement of PAHO and CDC/National Center for Environmental Health (NCEH) and Office on Smoking and Health (OSH) research, development, and implementation programs in environmental health epidemiology, surveillance, and prevention.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in Section 501(c) 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 $499,300 is available in FY 2001 to support this program. It is expected that the award will begin on September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Where to Obtain Additional Information

To obtain business management technical assistance, contact: Sharron Orum, Lead, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2716, Email address: spo2@cdc.gov.

For program technical assistance, contact: Michael A. McGeehin, PhD, MSPH Director, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, 6 Executive Park Drive, Atlanta, GA 30329, Telephone number: (404) 498–1300, Email address: Mmcgeehin@cdc.gov.

Dated: June 22, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–16246 Filed 6–27–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01111]

Global Malaria Prevention and Control 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 a cooperative agreement program for Global Malaria Prevention and Control. This program addresses the ''Healthy People 2010'' focus areas of Immunization and Infectious Diseases.

The purpose of the program is to expand the involvement of organizations in the global Roll Back Malaria (RBM) effort and to foster endemic-country action in malaria prevention and control program implementation and the relevant ancillary activities (e.g., baseline evaluation, strategy development, training, monitoring and evaluation, focused operations research to further the program implementation). See Attachment 2 for more background information.

B. Eligible Applicants

Assistance will be provided to public and private nonprofit organizations and their agents, including public and nonprofit faith-based organizations.

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 $500,000 is available in FY 2001 to fund approximately three awards. It is expected that the average award will be $125,000, ranging from $100,000 to $150,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preference

Funding preference will be given to organizations proposing to work in sub-Saharan African countries with the greatest number of malaria deaths.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

The applicant and their partner(s) in the malaria-endemic country must:

a. Enhance local capacity for implementing methods that will reduce malaria transmission and the morbidity and mortality from malaria infection in the partner malaria-endemic country. Applicants, in collaboration with the partner country, should analyze the partner country's current infrastructure for RBM implementation (per Attachment 3) and develop strategies that will address the priority implementation needs. In countries where such an analysis has already been done, applicants should propose to carry out through collaboration with a partner organization in the partner country the priority malaria prevention activities identified through the infrastructure analysis.

Priority program areas are listed below and are examples of activities that would be appropriate to propose under this announcement. Some of these activities may have been

addressed or are currently being addressed by the partner country's government or other partner organizations, in which case, the applicant should not duplicate existing efforts. Details and example activities for each are provided as attachments in the application kit.

1. Public health capacity building for government or institutions contributing to malaria prevention and control (Attachment 4)

2. Increase the public's access to effective antimalarial drugs and appropriate management of malaria illness to reduce malaria-associated mortality or the severity and duration of malaria illness. (Attachment 5)

3. Reduce exposure to malaria, particularly among young children and pregnant women, through the use of proven malaria control interventions. (Attachment 6)

4. Prevention of malaria and its adverse consequences during pregnancy. (Attachment 7)

5. Assess RBM program progress (Attachment 8)

6. Operations research (Attachment 9)

b. Attend and participate in an annual meeting of grantee representatives to present, discuss, and evaluate program activities.

c. If a proposed project involves research on human participants, ensure appropriate Independent Review Board (IRB) review.

2. CDC Activities

a. Provide consultation and assistance with training curricula and materials as necessary and appropriate for in-country training programs.

b. Provide consultation and assistance as needed to further the efforts of cooperative agreement recipients and their country partners in RBM planning and assessment.

c. Provide consultation and assistance on methods for treatment of malaria, enhancing local capacity to increase use of insecticide treated bed nets, or prevention of malaria and its adverse consequences during pregnancy.

d. Provide consultation and assistance on operations research study designs that may be carried out by one or more cooperative agreement recipients.

e. Assist in the development of a research protocol for IRB by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

f. Participate in an annual meeting of grantee representatives to present, discuss, and evaluate program activities.

E. Content

Letter of Intent (LOI)

An LOI is requested for this program. The narrative should be no more than two single-spaced pages, printed on one side, with one inch margins, and unreduced font. Your letter of intent will be used to plan the independent review group. The letter should include the following information (1) name and address of the organization and the proposed partner country and organization(s); (2) name, address and, telephone number of a contact person; (3) a brief description of the past and anticipated collaboration between the applicant and partner organization(s) in the partner country.

Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan.

Applicants must include evidence that they have notified the appropriate agency or Ministry of Health (MOH) in the government of the international or partner country. Applicant must receive concurrence from the appropriate agency or MOH in the government before an official award is made.

Applicants must show an established relationship with a partner organization(s) in the country they propose for their project. A letter with the partner's letterhead documenting the partner's agreement to collaborate on the respective activities must be included after the face page of the application. Without this letter(s), the application will be deemed non-responsive and returned.

F. Submission and Deadline

Letter of Intent (LOI)

On or before July 15, 2001 submit the LOI to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm.

On or before August 13, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late: Applications which do not meet the criteria in 1. or

2. above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and Need (15 Points)

a. The extent to which the malaria situation in the partner malaria-endemic country is well established as an important cause of morbidity and mortality across the country;

b. The extent to which the existing malaria control program and its prevention and control strategies are clearly described;

c. The extent to which existing surveillance, monitoring and evaluation methods and capability are clearly described;

d. The extent to which gaps and priorities in malaria prevention and control implementation are clearly described.

2. Collaborative Arrangement(s) (25 Points)

a. The extent to which the description of past and current collaboration between the applicant and partner organization in the partner country reflects an effective working relationship that will support the proposed activities;

b. The extent to which the collaboration will include the organization responsible for policy and implementation of malaria prevention and control in the target area;

c. Formal letters of support are provided for this application from appropriate groups (Ministry of Health, University, etc.) within the malaria-endemic country to demonstrate the appropriate and necessary cooperation for malaria prevention and control program support.

d. The extent to which plans for representation at the annual meeting of awardees reflect the intent to actively collaborate with other awardees through this meeting.

3. Plan of Operation (45 Points)

a. The extent to which the application provides evidence that key personnel have the ability and program skills to develop and carry out the proposed activities;

b. The extent to which the applicant and malaria-endemic partners have demonstrated a collaborative review of the priority needs for malaria in the malaria-endemic country;

c. The extent to which the applicant clearly defines objectives and justifies these objectives in relation to the proposed focus of the plan to address priority issues for the malaria-endemic country RBM program;

d. The adequacy of the plan to carry out major project components (e.g., in both the applicant and malaria-endemic country: leadership, staffing, administrative coordination, planning, and measurement activities), including a timetable that provides major milestones for implementing activities;

e. The degree to which the plan is consistent with malaria prevention best practices and RBM principles;

f. If capacity building for public health in malaria is proposed, the extent to which the planned activities relate to capacity improvements that will benefit RBM activities in the partner country;

g. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

4. Evaluation Plan (15 Points)

The extent to which (a) the applicant describes a detailed plan for monitoring the implementation of the activities and evaluating the extent to which the proposed activities strengthen local and national capacity for malaria prevention and control, and (b) the monitoring and evaluation plan builds on existing monitoring and evaluation systems in the project area and can demonstrate progress towards RBM objectives.

5. Budget (Not Scored)

The extent to which the budget is detailed, clear, justified, describes in-kind or other project support, and is consistent with the proposed program activities.

6. Human Subjects (Not Scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.)

H. Other Requirements

Technical Reporting Requirements Provide CDC with original plus two copies of—

1. annual progress reports;

2. financial Status Report (FSR), no more than 90 days after the end of the budget period; and

3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement in the application kit.

AR–1 Hunman Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a), 307, and 317(k)(2) of the Public Health Service Act, [42 U.S.C. sections 241(a), 2421, and 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain business management technical assistance, contact: Merlin Williams, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: 770–488–2765, Email address: mqw6@cdc.gov.

For program technical assistance, contact: Richard W. Steketee, MD, MPH or Craig Leutzinger, Division of Parasitic Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, GA 30333, Telephone: 770–488–7760, Fax: 770–488–7761, Email address: ris1@cdc.gov or cll1@cdc.gov.

Dated: June 22, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–16248 Filed 6–27–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control and Prevention

Program Announcement Number 01163 Correction

AGENCY: Centers for Disease Control and Prevention, HHS

ACTION: Program announcement number 01163 correction.

SUMMARY: The Centers for Disease Control and Prevention published Program Announcement 01163 for HIV Prevention Projects for Community-Based Organizations Targeting Young Men of Color Who Have Sex With Men

FOR FURTHER INFORMATION CONTACT: David A. Wilson, 770–488–2692

Correction

In the **Federal Register** of June 21, 2001, in FR Vol 66, No. 120, Page 33254, first line, third column, correct date to read On or Before July 31, 2001. On Page 33255, second column, under J. Where to Obtain Additional Information, third paragraph, phone number for David A. Wilson should read: 770–488–2692.

Dated: June 22, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–16247 Filed 6–27–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Opportunity To Collaborate in the Evaluation of Topical Microbicides To Reduce Transmission of Human Immunodeficiency Virus (HIV) Among Men Who Have Sex With Men (MSM)

AGENCY: Centers for Disease Control and Prevention, DHHS.

ACTION: Opportunities for collaboration for evaluation of topical microbicides.

The Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCHSTP), Division of HIV/AIDS Prevention-Surveillance and Epidemiology (DHAP–SE), Epidemiology Branch (EpiB), has an opportunity for collaboration to evaluate the safety and preliminary efficacy of topical microbicides for rectal application to reduce HIV transmission. These evaluations will include in-vitro assays, macaque studies, and phase I/phase II trials in MSM.

SUMMARY: The Division of HIV/AIDS Prevention-Surveillance and Epidemiology (DHAP–SE) of the National Center for HIV, STD, and TB Prevention (NCHSTP) at the Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services (DHHS) seeks one or more pharmaceutical, biotechnological, or other companies who hold a proprietary position on microbicides developed for vaginal use that are ready for phase III trials. The selected company and CDC would execute an ''Agreement'' to evaluate the company's microbicides for safety and acceptability of topical microbicides designed for vaginal application to reduce HIV transmission when applied to the rectal mucosa. These evaluations will include in-vitro assays, macaque studies, and phase I/phase II trials in MSM. Each collaboration would have an expected duration of two (2) to five (5) years. The goals of the collaboration include the timely development of data to further the identification and commercialization of effective topical microbicides and the rapid publication of research findings to increase the number of HIV prevention technologies proven effective and available for use by MSM as well has heterosexual men and women.

Confidential proposals, preferably 10 pages or less (excluding appendices), are solicited from companies with patented or licensed agents which have undergone sufficient clinical testing to be: (1) Currently under an IND approved by the Food and Drug Administration (FDA); (2) have completed at least one phase I and one phase II trial for vaginal application of the microbicide as of December 31, 2001; and (3) be planning to begin a phase III trial for vaginal use which is anticipated to begin enrollment prior to December 31, 2002.

DATES: Formal proposals must be submitted no later than July 30, 2001.

ADDRESSES: Formal proposals should be submitted to Jeff Efird, MPA, Epidemiology Branch, Division of HIV/AIDS Prevention-Surveillance and Epidemiology, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–45, Atlanta, GA 30333; Phone: (direct) 404–639–6136, (office) 404–639–6130; Fax: 404–639–6127; e-mail: *JLE1@cdc.gov*. Scientific questions should be addressed to Dawn K. Smith, MD., Epidemiology Branch, Division of HIV/AIDS Prevention-Surveillance and Epidemiology, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–45, Atlanta, GA 30333; Phone: (direct) 404–639–6165, (office) 404–639–6146; Fax: 404–639–6127; e-mail: *Dsmith1@cdc.gov*. Inquiries directed to ''Agreement'' documents related to participation in this opportunity should be addressed to Thomas E. O'Toole, MPH, Deputy Director, Technology Transfer Office, CDC, 1600 Clifton Road, Mailstop E–67, Atlanta, GA 30333; Phone: (direct) 404–639–6270, (office) 404–639–6270; Fax: 404–639–6266; e-mail: *TEO1@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Technology Available

One mission of the Epidemiology Branch of DHAP–SE/NCHSTP is to develop and evaluate biomedical interventions to reduce HIV transmission. To this end, the EpiBr is establishing contracts to conduct phase I and phase II trials of topical microbicides. EpiBr also funds research in the Division of AIDS, STD, and TB Laboratory Research (DASTLR) of the National Center for Infectious Diseases (NCID) at CDC and with external laboratories to conduct macaque studies and in-vitro studies in support of human microbicide trials. The goal of these efforts is to provide scientific and technical expertise and key resources for the evaluation of topical microbicides through late preclinical, phase I, phase II, and proof-of-concept clinical trials.

Technology Sought

EpiBr now seeks potential collaborators having licensed or patented agents for use as vaginal microbicides and:

(1) Will have at least one phase I and one phase II trial for vaginal use completed by December 31, 2001;

(2) Will have a phase III trial for vaginal use planned to begin enrollment prior to December 31, 2002;

(3) Have manufacturing arrangements for production of clinical trial-grade product (and applicator if necessary) under Good Manufacturing Process (c-GMP) standards; and

(4) Are willing to provide a formulation and dosage appropriate for rectal application.

NCHSTP and Collaborator Responsibilities

The NCHSTP anticipates that its role may include, but not be limited to, the following:

(1) Providing intellectual, scientific, and technical expertise and experience to the research project;

(2) Planning and conducting preclinical (in-vitro and in-vivo) research studies of the agent and interpreting results;

(3) Publishing research results;

(4) Depending on the results of these preclinical investigations, NCHSTP may elect to conduct additional research with macaques to evaluate safety and/or efficacy proof-of-concept; and

(5) Depending on the results of preclinical and/or macaque studies and FDA approval, NCHSTP may elect to conduct phase I/II clinical trials of the agent.

The NCHSTP anticipates that the role of the successful collaborator(s) will include the following:

(1) Providing intellectual, scientific, and technical expertise and experience to the research project.;

(2) Participating in the planning of research studies, interpretation of research results and, as appropriate, joint publication of conclusions;

(3) Providing NCHSTP access to necessary proprietary technology and/or data in support of the research activities; and

(4) Providing NCHSTP clinical grade (c-GMP) agent for use in preclinical and clinical studies covered in this collaboration.

Other contributions may be necessary for particular proposals.

Selection Criteria

In addition to evidence of the ability to fulfill the roles described above, proposals submitted for consideration should address, as best as possible and to the extent relevant to the proposal, each of the following:

(1) Data on the in-vitro anti-HIV activity of the agent;

(2) Animal, human, and in-vitro data on the safety of the agent when applied to mucosal surfaces;

(3) Data on the effects of the agent on rectal mucosa (if available); and

(4) Data on the in-vitro activity of the agent against other sexually transmitted organisms.

Dated: June 22, 2001.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention.

[FR Doc. 01–16243 Filed 6–27–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Opportunity To Collaborate in the Evaluation of Topical Microbicides To Reduce Heterosexual Transmission of Human Immunodeficiency Virus (HIV)

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Opportunities for collaboration for evaluation of topical microbicides.

The Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCHSTP), Division of HIV/AIDS Prevention-Surveillance and Epidemiology (DHAP–SE), Epidemiology Branch (EpiBr), has an opportunity for collaboration to evaluate the safety and preliminary efficacy of topical microbicides designed for vaginal application to reduce HIV transmission. These evaluations will include in-vitro assays, macaque studies, and phase I/phase II trials in heterosexual women and men.

SUMMARY: The Division of HIV/AIDS Prevention-Surveillance and Epidemiology (DHAP–SE) of the National Center of HIV, STD, and TB Prevention (NCHSTP) at the Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services (DHHS) seeks one or more pharmaceutical, biotechnological, or other companies who hold a proprietary position on microbicides that are ready for phase I/phase II trials. The selected company and CDC will execute an ''Agreement'' to evaluate the company's microbicides for safety and preliminary efficacy of topical microbicides designed for vaginal application to reduce HIV transmission.

These evaluations will include in-vitro assays, macaque studies, and phase I/phase II trials in heterosexual women and men. Each collaboration would have an expected duration of two (2) to five (5) years. The goals of the collaboration include the timely development of data to further the identification and commercialization of effective topical microbicides and the rapid publication of research findings to increase the number of HIV prevention technologies proven effective and available for use.

Confidential proposals, preferably 10 pages or less (excluding appendices), are solicited from companies with patented or licensed agents which have undergone sufficient preclinical testing to be either (1) currently under an IND application approved by the Food and Drug Administration (FDA) or (2) prepared to submit an IND application to the FDA by December 31, 2001.

DATES: Formal proposals must be submitted no later than July 30, 2001.

ADDRESSES: Formal proposals should be submitted to Jeff Efird, MPA, Epidemiology Branch, Division of HIV/AIDS Prevention—Surveillance and Epidemiology, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–45, Atlanta, GA 30333; Phone: (direct) 404–639–6136, (office) 404–639–6130; Fax: 404–639–6127; e-mail: *JLE1@cdc.gov.* Scientific questions should be addressed to Dawn K. Smith, MD., Epidemiology Branch, Division of HIV/AIDS Prevention—Surveillance and Epidemiology, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–45, Atlanta, GA 30333; Phone: (direct) 404–639–6165, (office) 404–639–6146; Fax: 404–639–6127; e-mail: *Dsmith1@cdc.gov.* Inquiries directed to ''Agreement'' documents related to participation in this opportunity should be addressed to Thomas E. O'Toole, MPH, Deputy Director, Technology Transfer Office, CDC, 1600 Clifton Road, Mailstop E–67, Atlanta, GA 30333; Phone: (direct) 404–639–6270, (office) 404–639–6270; Fax: 404–639–6266; e-mail: *TEO1@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Technology Available

One mission of the Epidemiology Branch of DHAP–SE/NCHSTP is to develop and evaluate biomedical interventions to reduce HIV transmission. To this end, the EpiBr is establishing contracts to conduct phase I and phase II trials of topical microbicides. EpiBr also funds research in the Division of AIDS, STD, and TB Laboratory Research (DASTLR) of the National Center for Infectious Diseases (NCID) at CDC and with external laboratories to conduct macaque studies and in-vitro studies in support of human microbicide trials. The goal of these efforts is to provide scientific and technical expertise and key resources for the evaluation of topical microbicides through late preclinical, phase I, phase II, and proof-of-concept clinical trials.

Technology Sought

EpiBr now seeks potential collaborators having licensed or patented agents for use as vaginal microbicides which:

(1) Have laboratory or animal model evidence of anti-HIV activity;

(2) Have been formulated for vaginal application;

(3) Are not entering phase III clinical trial in the next 12 months;

(4) Have an IND and are currently in phase I clinical trial or have not yet submitted an IND application but have sufficient preclinical data to do so by December 31, 2001; and

(5) Have manufacturing arrangements for production of clinical trial-grade product (an applicator if necessary) under Good Manufacturing Process (c-GMP) standards.

NCHSTP and Collaborator Responsibilities

The NCHSTP anticipates that its role may include, but not be limited to, the following:

(1) Providing intellectual, scientific, and technical expertise and experience to the research project;

(2) Planning and conducting preclinical (in-vitro and in-vivo) research studies of the agent and interpreting results;

(3) Publishing research results;

(4) Depending on the results of these preclinical investigations, NCHSTP may elect to conduct additional research with macaques to evaluate safety and/or efficacy proof-of-concept; and

(5) Depending on the results of preclinical and/or macaque studies and FDA approval, NCHSTP may elect to conduct phase I/II clinical trials of the agent.

The NCHSTP anticipates that the role of the successful collaborator(s) will include the following:

(1) Providing intellectual, scientific, and technical expertise and experience to the research project;

(2) Participating in the planning of research studies, interpretation of

research results and, as appropriate, joint publication of conclusions;

(3) Providing NCHSTP access to necessary proprietary technology and/or data in support of the research activities; and

(4) Providing NCHSTP clinical grade (c-GMP) agent for use in preclinical and clinical studies covered in this collaboration.

Other contributions may be necessary for particular proposals.

Selection Criteria

In addition to evidence of the ability to fulfill the roles described above, proposals submitted for consideration should address, as best as possible and to the extent relevant to the proposal, each of the following:

(1) Data on the in-vitro anti-HIV activity of the agent;

(2) Animal and other data on the safety of the agent when applied to mucosal surfaces;

(3) Data on the effects of the agent on vaginal commensal microbial organisms; and

(4) Data on the in-vitro activity of the agent against other sexually transmitted organisms.

Dated: June 22, 2001.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention.

[FR Doc. 01–16244 Filed 6–27–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Government-Owned Inventions; Availability for Licensing

AGENCY: Centers for Disease Control and Prevention, Technology Transfer Office, Department of Health and Human Services

ACTION: Notice.

The inventions named in this notice are owned by agencies of the United States Government and are available for licensing in the United States (U.S.) in accordance with 35 U.S.C. 207, to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information, and copies of the U.S. patent applications listed below, may be obtained by writing to Thomas E. O'Toole, M.P.H., Deputy Director, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Mailstop E–67, 1600 Clifton Rd., Atlanta, GA 30333, telephone (404) 498–0170, facsimile (404) 498–0095, and e-mail tto@cdc.gov. Please note that a signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

Apparatus for Applying Chemicals to Rodents

This invention comprises a method of controlling Lyme disease by preventing the maturation of deer ticks on white-footed mice by exposing the mice to insecticides as they enter food-baited boxes. Other tick- and flea-borne diseases can also be controlled by this method.

Inventors: Gary O. Maupin *et al.* U.S. Patent Application SN: 09/595,034 (CDC Ref. #: I–031–00).

Control of Arthropod Vectors of Parasitic Diseases

This invention comprises a method of controlling Lyme disease by preventing the maturation of deer ticks on white-footed mice by exposing the mice to insecticides as they enter food-baited boxes. Other tick- and flea-borne diseases can also be controlled by this method.

Inventors: Gary O. Maupin *et al.* U.S. Patent Application SN: 09/595,035 (CDC Ref. #: I–032–00).

Control of Arthropods in Rodents

This invention comprises a method of controlling Lyme disease by preventing the maturation of deer ticks on white-footed mice by exposing the mice to insecticides as they enter food-baited boxes. Other tick- and flea-borne diseases can also be controlled by this method.

Inventors: Gary O. Maupin *et al.* U.S. Patent Application SN: 09/595,177 (CDC Ref. #: I–041–00).

Method for Monitoring Local Reaction Associated With Injections

A simple and inexpensive method to give patients a guideline for determining the severity of an adverse reaction that may occur at the site of injection. Patients can be instructed to notify health care providers if an inflammatory response spreads beyond a measured distance from the location of injection.

Inventor: Laurie Kamimoto, U.S. Patent Application SN: 60/238,691 (CDC Ref. #: I–036–00).

Auscultory Training System

This invention provides for the precise reproduction of recorded sounds. Under ordinary conditions, a sound signal is distorted by the amplifier, speakers, and the surroundings. This invention modifies the signal delivered to the speaker in such a way as to precisely reproduce the signal as it was originally recorded. The graphical user-interface allows for the easy selection and playback of individual components of a larger sound recording. This invention could have applications as a diagnostic screening tool, as a telemedicine tool, and as a teaching tool to instruct the user on the various body sounds, such as lung, bowel, or heart sounds.

Inventors: Walter McKinney *et al.* U.S. Patent Application SN: To be assigned, filed 4.30.2001. (CDC Ref. #: I–037–00).

Peptide Vaccines Against Group A Streptococci

The invention is a vaccine comprised of three synthetic peptides of 20–25 amino acids in length from different M proteins. The synthetic peptides can be recognized by M type-specific antibodies and are capable of eliciting functional opsonic antibodies in mice. The vaccine may have the potential to eliminate over 85% of Group A Streptococci infections and reduce by 85% the nasopharyngeal reservoir of Group A Streptococci in the United States.

Inventors: Bernard Beall *et al.* U.S. Patent Application SN: To be assigned, filed 5.18.2001. (CDC Ref. #: I–039–00)

DNA Synthesis by the Cooperative Action of DNA Polymerase and Nuclease

Confirmation of a diagnosis of an infectious agent usually depends upon the detection of the causative agent or its signature effect on the immune system. Nucleic acid detection methods offer the greatest sensitivity but depend upon specific hybridization of a primer or a probe, thus they can only be used to detect nucleic acids. This invention comprises a novel method of diagnostic detection which retains the sensitivity of nucleic acid based amplification methods while allowing detection of non-nucleic acid targets such as antibodies, surface proteins, or other antigenic components. Thus, no specific sequence information need be known about the potential target.

Inventors: Yuri Khudyakov, U.S. Patent Application SN: (CDC Ref. #: I–043–00)

BACTID—Microcomputer Programs and Databases for the Identification of Enterobacteriaceae, Vibrionaceae, and Other Microorganisms

BACTID consists of a software program coupled with a database whereby the user enters a description of an unknown microorganism which the software compares to the database for the purpose of identification of the unknown. This program allows regional diagnostic labs to access national databases which provide for greater sensitivity and specificity in identification of unknowns without the need to transfer samples to larger labs.

Inventor: John J. Farmer, U.S. Patent Application SN: Application yet to be filed. (CDC Ref. #: I–045–00)

Dated: June 22, 2001.

Joseph R. Carter,

Associate Director for Management and Operation, Centers for Disease Control and Prevention.

[FR Doc. 01–16245 Filed 6–27–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0208]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Voluntary National Retail Food Regulatory Program Standards

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 30, 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: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

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.

Voluntary National Retail Food Regulatory Program Standards

FDA has developed the Voluntary National Retail Food Regulatory Program Standards (the National Standards) to assist and promote the uniform application of provisions of the model FDA Food Code by several thousand local, State, and tribal jurisdictions that have primary responsibility for the regulation or oversight of retail level food operations. The National Standards are intended to serve as a guide to regulatory retail food program managers in the design and management of a retail food program that is focused on the reduction of risk factors know to cause foodborne illness. The National Standards also promote active management control by industry of all risk factors that may cause foodborne illness. Authority for providing such assistance is derived from section 311 of the Public Health Service Act (42 U.S.C. 243), and delegation of authority from the Public Health Service to the Commissioner of Food and Drugs related to food protection is contained in 21 CFR 5.10(a)(2) and (a)(4). Under 31 U.S.C. 1535, FDA provides financial assistance to other Federal agencies such as the Indian Health Service. FDA has established a section on the Internet at http://vm.cfsan.fda.gov/~dms/ret-toc.html under ''Federal/State Food Programs—Retail Food Safety References'' to list jurisdictions that have voluntarily elected to use the National Standards.

Utilization of the National Standards by local, State, and tribal regulatory agencies is an important step to further the goals of the President's Council on Food Safety and FDA program goals. All regulatory agencies are encouraged to voluntarily utilize the National Standards as a guide for the design and management of a retail food safety program. There is no reporting or recordkeeping requirement for those jurisdictions that wish to utilize part or all of the National Standards to enhance or measure program performance. Reporting is only a requirement for those jurisdictions that request to be listed in the FDA National Registry.

Jurisdictions that request listing in the FDA National Registry of participating regulatory agencies will be expected to perform certain management tasks and periodically report the results to FDA. Voluntary listing in the FDA National Registry requires that the following tasks be performed by State, local, and tribal program managers: (1) Conduct a program self assessment, (2) conduct a baseline survey of the regulated industry, and (3) obtain an independent outside audit. All three tasks must be completed within a 3-year timespan. The tasks must be performed in accordance with the guidance provided in the National Standards and the results reported to FDA.

FDA based its estimate on the number of State agencies (100) involved in Food Code related regulatory programs, 300 local agencies with local ordinance authority that may consider Food Code adoption in any one year and 100 tribal agencies. The presumption being that those agencies most likely to utilize the National Standards are also those agencies with authority to adopt and enforce the model FDA Food Code. There is only one required report, the FDA National Registry Report (Appendix I), which is used to report program self assessment, baseline surveys of industry, and outside audits. The time required to complete the actual reporting document is minimal, however, additional time is required to analyze and review existing records, conduct baseline inspections, and secure an outside audit. The hour burden estimate includes the time required to review the instructions in the National Standards, search existing data sources, gather and maintain the data needed, complete worksheets, and review the collected information. The estimate of 92 hours to complete a program self assessment is based on the average time reported by the four State and three local jurisdictions that participated in the National Standards Pilot. The amount of time expended by individual jurisdictions ranged from 40 to 215 hours. This range is reflective of the difference in size between jurisdictions. The baseline survey of industry and the outside audit are expected to require a similar amount of time to complete.

Because only one of the three tasks is required per year, the average annual reporting burden is estimated to be 92 hours per year for each participating jurisdiction. Because the records of establishment inspections, investigations, and enforcement activities are routinely maintained and accepted management practices already necessitate the collection of some required information and maintenance of records, the recordkeeping burden is minimal.

In the **Federal Register** of May 9, 2001 (66 FR 23715), the agency requested comments on the proposed collections

of information. No significant comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Standard No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
9[2]	500	1	500	92	46,000

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2]Includes the use of Forms FDA 3519 and 3520.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

Standard No.	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
3,4, and 6[2]	500	1	500	5	2,500

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2]The standards incorporate the best program management practices currently in use in the regulatory community. The recommended policies, procedures, and standard operating procedures contained in the various national standards are considered usual and customary management practices for State, local, and tribal agencies that regulate the retail segment of the food industry.

Dated: June 20, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–16195 Filed 6–27–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 17, 2001, 10 a.m. to 5 p.m.

Location: Hilton, Salons D and E, 620 Perry Pkwy., Gaithersburg, MD.

Contact: David Krause, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3090, ext. 141, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12519. Please call the Information Line or access the Internet address of http://www.fda.gov/cdrh/panelmtg.html for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for an interactive wound and burn bressing. Background information, including the agenda and questions for the committee, will be made available to the public on July 16, 2001, on the Internet at http://www.fda.gov/cdrh/panelmtg.html.

Procedure: On July 17, 2001, from 10:30 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 3, 2001. Oral presentations from the public will be scheduled between approximately 11 a.m. and 11:30 a.m., and between approximately 3 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 3, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On July 17, 2001, from 10 a.m. to 10:30 a.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) relating to pending issues and applications.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 19, 2001.

Bonnie Malkin,

Special Assistant to the Senior Associate Commissioner.

[FR Doc. 01–16196 Filed 6–27–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anesthesiology and Respiratory Therapy Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Anesthesiology and Respiratory Therapy Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 16, 2001, 10 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 20B, 9200 Corporate Blvd., Rockville, MD.

Contact: Michael Bazaral, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8611, ext. 140, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the

Washington, DC area), code 12624. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a high-frequency ventilator used in the treatment of acute respiratory failure in adults. Background information and questions for the committee will be available to the public on July 13, 2001, on the Internet at http://www.fda.gov/cdrh/panelmtg.html.

Procedure: On July 16, 2001, from 12 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 9, 2001. Oral presentations from the public will be scheduled between approximately 12:15 p.m. and 12:45 p.m. Near the end of the committee deliberations, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 9, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On July 16, 2001, from 10 a.m. to 12 noon, the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) regarding pending and future anesthesiology and respiratory therapy device submissions.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 19, 2001.

Bonnie Malkin,

Special Assistant to the Senior Associate Commissioner.

[FR Doc. 01–16197 Filed 6–27–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10045]

Agency Information Collection Activities: Proposed Collection; 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: Durable Medical Equipment and Prosthetics, Orthotics, and Supplies (DMEPOS) Supplier Survey: Texas;

Form No.: HCFA–10045 (OMB# 0938–NEW);

Use: This survey is necessary to collect information on beneficiary access, quality of services, diversity of product selection, industry competitiveness, and financial performance from DMEPOS suppliers. These key elements of the evaluation of Medicare's competitive bidding demonstration cannot be thoroughly evaluated without a survey of suppliers. The information will be presented to HCFA and to Congress, who will use the results to determine whether the demonstration should be extended to other sites. The respondents will be companies who supply DMEPOS to Medicare beneficiaries.;

Frequency: Annually;

Affected Public: Business or other for-profit;

Number of Respondents: 384;

Total Annual Responses: 384;

Total Annual Hours: 768.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, HCFA–10045, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 20, 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. 01–16272 Filed 6–27–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Comprehensive Conservation Plan and Environmental Assessment for Rydell National Wildlife Refuge, Erskine, Minnesota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the Refuge Improvement Act of 1997, the Fish and Wildlife Service has published the Rydell National Wildlife Refuge Draft Comprehensive Conservation Plan and Environmental Assessment. The Plan describes how the Service intends to manage the Refuge for the next 15 years.

DATES: Submit written comments by August 15, 2001. All comments should be addressed to Rick Julian, Rydell National Wildlife Refuge, Route 3, Box 105, Erskine, MN 56535. Comments may also be submitted through the Service's regional website at: http://midwest.fws.gov/planning/rydtop.htm

ADDRESSES: A copy of the Plan or a summary may be obtained by writing to Rick Julian at the address above or by planing a request through the website. The plan is also posted on the Service's planning website at http://midwest.fws.gov/planning/rydelldccp.htm

FOR FURTHER INFORMATION CONTACT: For additional information contact Rick Julian at Rydell National Wildlife Refuge, Route 3, Box 105, Erskine, MN 56535; or call Mr. Julian at 218/687–2229; or direct e-mail to rick__julian@fws.gov.

SUPPLEMENTARY INFORMATION: Rydell National Wildlife Refuge includes wetlands, hardwood stands, conifer plantations, grass meadows and cropland. The Refuge was established in 1992 and today includes 2,120 acres. The diverse habitat is used by diving and dabbling ducks, geese, swans, white-tailed deer, moose, ruffed grouse, cormorants, herons, black bear, hawks and owls, among other species. The Refuge was established to protect wildlife habitat diversity, to encourage waterfowl and other migratory bird production, and to promote environmental education and recreation. In addition, the Refuge was established to demonstrate sound fish and wildlife management and wise land and water stewardship.

The Draft Comprehensive Conservation Plan emphasizes the habitat needs of fish and wildlife and expanded opportunities for wildlife-dependent recreation.

Dated: June 15, 2001.

Barbara A. Milne,

Acting Regional Director.

[FR Doc. 01–16249 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research and Development Agreement (CRADA) negotiation.

SUMMARY: The U.S. Geological Survey (USGS) is contemplating entering into a cooperative Research and Development Agreement (CRADA) with the National Stone, Sand & Gravel Association to develop a CD–ROM database of U.S. aggregates operations, based on the information included in the USGS National Atlas. The interative CD–ROM will allow users to search and correlate aggregates operations with a broad array of geographical, geologic, environmental, infrastructure, and political features.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact: Valentin V. Tepordei, USGS National Center, MS 983, 12201 Sunrise Valley Dr., Reston, VA 20192, Tel. 703–648–7728.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in the Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associate Director for Geology, U.S. Geological Survey, Reston, VA.

[FR Doc. 01–16273 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to an approved Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Deputy Assistant Secretary—Indian Affairs (Management), Department of the Interior, through his delegated authority, has approved Amendment IX to the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon Gaming Compact, which was executed on May 4, 2001.

DATES: This action is effective June 28, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: June 20, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–16214 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–00–1320–EL, WYW151133]

Belle Ayr 2000 Coal Lease Application, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability (NOA) of Decision Record.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Decision Record for the Environmental Assessment (EA) for the Belle Ayr 2000 Coal Lease Application. That EA analyzes the potential impacts of leasing and mining Federal coal on lands in Campbell County, WY. BLM's decisions was to approve the Selected Alternative, which analyzed the impacts of offering for competitive lease sale approximately 243.61 acres containing an estimated 29 million tons of in-place Federal coal.

BLM received six written comments during the two scoping periods on the Belle Ayr 2000 lease application. These comments are on file in the Casper and Cheyenne offices of the BLM. Three written comments were received on the draft EA, and these were included, with written responses, in the final EA. The transcript of the formal hearing is on file in the Casper and Cheyenne Offices of the BLM. Three written comments were received on the final EA. All comments that were received during the process were considered in the preparation of the draft and final EA's, and in the Decision Record.

BLM Notices of Availability for the draft EA and for the final EA for this project were published in the **Federal Register** on December 29, 2000 (65 FR 83076), and on April 24, 2001 (66 FR 20681), respectively.

DATES: The Decision Record was signed by the Acting BLM WY State Director on June 6, 2001. Parties in interest have the right to appeal that decision pursuant to 43 CFR part 4, within thirty days from the date of publication of this NOA in the **Federal Register**. The Decision Record contains instructions on taking appeals to the Interior Board of Land Appeals.

FOR FURTHER INFORMATION CONTACT: Melvin Schlagel, phone: (307) 775–6257. Copies of the Decision Record may be obtained from the following BLM offices: Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604, 307–261–7600; and Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009, 307–775–6256.

Dated: June 25, 2001.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 01–16386 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notification of Public Hearing Regarding Surface Mining Control and Reclamation Act (SMCRA), Section 601, Petition To Declare Federal Lands Unsuitable for Non-coal Mining in Plumas County, CA

AGENCY: Bureau of Land Management, Department of the Interior, State Office, Sacramento, California.

SUMMARY: Notice is hereby given, in accordance with Section 601 of the Surface Mining Control and Reclamation Act (SMCRA), the Bureau of Land Management will be holding a public hearing to gather comments on the suitability for noncoal mining of public land in eastern Genesee Valley. Specifically, 2.9 square miles of federal land administered by the U. S. Forest Service located within Sections 25 and 36, Township 26 N, Range 11 E, and Sections 30 and 31, Township 26 N, Range 12 E, MDB&M, Plumas County, California.

The hearing will be held in the Taylorsville Grange Hall, located at 4322 Main Street, Taylorsville, Plumas County, California, on Wednesday, July 25, 2001, from 7 to 8:30 p.m. All public comments will be recorded and the transcript will become part of the record. Comments provided by members of the general public will be reviewed and considered in rendering a final determination of this noncoal mining land suitability petition.

In addition, an informational meeting will also be held two weeks prior to the public hearings at the Taylorsville Grange Hall, on Wednesday, July 11, 2001, from 5 to 8 p.m. The purpose of this meeting is to provide the public with information regarding important details of the SMCRA, Section 601 petition process and relevant facts and issues pertaining to the case.

FOR FURTHER INFORMATION CONTACT:

Modesto Tamondong (Mining Engineer) US DOI BLM–CASO (916) 978–4372

David Lawler (Geologist) US DOI BLM–CASO (916) 978–4365

Lee Ann Taylor (Public Affairs Officer) USDA USFS–PNF (530) 283–7850

Dated: June 11, 2001.

Sean Hagerty,

Acting Deputy State Director—Minerals.

[FR Doc. 01–16217 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–350–1430–EU)(CACA 40437]

Notice of Realty Action; Noncompetitive Sale of Public Land in Plumas County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: (CACA–40437) Notice of Noncompetitive Sale of Public Land in Plumas County, California.

This notice affects public lands in Plumas County, California within T.28 N., R. 7 E., Section 17, NWNW, M.D.M. These public lands will be offered for direct sale to Plumas County.

SUPPLEMENTARY INFORMATION: The 40± acre parcel being offered for disposal by direct sale to Plumas County, pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) and 43 CFR 2711.3–3(a)(4). Lands described as T.28 N., R. 7 E., Section 17, NWNW, M.D.M., containing 40± acres more or less have been examined and found suitable for disposal and is consistent with the 1984 Land Tenure Amendment. The land will not be offered for sale until at least 60 days after the date of this notice. The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first. This land is not essential to any Bureau of Land Management program and no resource needed by the public will be lost through the transfer to private ownership. Conveyance is consistent with the current Land Tenure Amendment for Beckwourth Planning Unit which specifically identified the 40± acres as one of the parcels available for disposal.

It has been determined that the subject parcel contains no known mineral values; therefore mineral interests may be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of those mineral interests pursuant to the Federal Land Policy and Management Act (FLPMA) of 1976, Section 209 entitled Reservation and Conveyance of Minerals.

The patent, when issued, may contain certain reservations to the United States. Detailed information concerning these reservations, as well as specific conditions of sale, are available for review at the Eagle Lake Field Office, 2950 Riverside Drive, Susanville, CA 96130.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance of the lands to the Field Manager at the above address. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the lands will be offered for sale to Plumas County.

Dated: June 5, 2001.

Linda D. Hansen,

Field Manager.

[FR Doc. 01–16218 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA–42908]

Notice of Realty Action, Plumas County, CA; Noncompetitive Sale of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: (CACA–42908) Notice of noncompetitive sale of public land in Plumas County, California.

SUMMARY: This notice affects public lands in Plumas County, California within T.23N., R.16E., Section 35, SWNW, M.D.M. These public lands will be offered for direct sale to the adjoining landowner, David Goss of the Pitchfork Cattle Company.

SUPPLEMENTARY INFORMATION: The 40± acre parcel being offered for disposal by direct sale to the adjoining landowner, David Goss, is pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) and Title 43 Code Federal Regulations (CFR) 2711.3–3(a)(4). Lands described as T.23N., R.16.E., Section 35, SWNW, M.D.M., containing 40± acres more or less have been examined and found suitable for disposal in a 1984 Land Tenure Amendment. The land will not be offered for sale until at least 60 days after the date of this notice. The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first. This land is not essential to any Bureau of Land Management program and no resource needed by the public will be lost through the transfer to private ownership. Conveyance is consistent with current the Land Tenure

Amendment for Beckwourth Planning Unit which specifically identified the 40± acres as one of the parcels available for disposal. Notice of Availability of Planning Criteria was published in the **Federal Register** on February 9, 1984.

It has been determined that the subject parcel contains no known mineral values; therefore mineral interests may be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of those mineral interests pursuant to the Federal Land Policy and Management Act (FLPMA) of 1976, Section 209 entitled Reservation and Conveyance of Minerals.

The patent, when issued, may contain certain reservations to the United States. Detailed information concerning these reservations, as well as specific conditions of sale, are available for review at the Eagle Lake Field Office, 2950 Riverside Drive, Susanville, CA 96130.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance of the lands to the Field Manager at the above address. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the lands will be offered for sale to David Goss, Pitchfork Cattle Company.

Dated: June 5, 2001.

Linda D. Hansen,

Field Manager.

[FR Doc. 01–16219 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–01–1420–BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert M. Scruggs, Chief, Branch of Geographic Services, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6541.

SUPPLEMENTARY INFORMATION:

1. The Plats of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on the first business day after 30 days from the publication of this notice:

The plat, representing the independent resurvey of the west and north boundaries and a portion of the subdivisional lines, superceding a portion of the plat approved May 28, 1881, Township 14 South, Range 69 East, of the Mount Diablo Meridian, in the state of Nevada, under Group No. 789, was accepted May 31, 2001.

The plat, in four (4) sheets, representing the dependent resurvey of the Third Standard Parallel South, through a portion of Range 68 East, and a portion of the east boundary, and the independent resurvey of the west boundary and a portion of the subdivisional lines, and metes-and-bounds surveys of Interstate Highway No. 15, superceding a portion of the plat approved December 2, 1881, Township 13 South, Range 69 East, of the Mount Daiblo Meridian, in the state of Nevada, under Group No. 789, was accepted May 31, 2001.

These surveys were executed to meet certain needs of the Bureau of Land Management and the City of Mesquite.

2. Subject to valid existing rights, the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, these lands are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to official filing of the Plats of Survey described in paragraph 1, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: June 1, 2001.

Robert M. Scruggs,

Chief Cadastral Surveyor, Nevada

[FR Doc. 01–16215 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–01–1020–BJ]

Notice of Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 5 W., approved April 25, 2001, for Group 980 NM;

T. 26 N., R. 31 E., approved May 7, 2001, for Group 983 NM;

T. Sangre de Cristo Tract within the Sangre de Cristo Grant, approved April 25, 2001, for Group 982 NM;

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: June 8, 2001.

Stephen W. Beyerlein,

Acting Chief Cadastral Surveyor for New Mexico.

[FR Doc. 01–16216 Filed 6–27–01; 8:45 am]

BILLING CODE 4310–FB–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–442]

Certain Closet Flange Rings; Notice of Commission Determination Not To Review an Initial Determination Granting a Motion for Summary Determination and Terminating the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the initial determination (''ID'') of the presiding administrative law judge (''ALJ'') on June 5, 2001, granting a motion for summary determination of non-infringement and terminating the above-captioned investigation with a finding of no violation of section 337 of the Tariff Act of 1930.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 14, 2000, based on a complainant by Pasco Specialty & Manufacturing Co. (''Pasco''). 65 FR 80454. The sole respondent named in the investigation is Jones Stephens Corporation (''Jones Stephens''). The complaint alleges that respondent Jones Stephens has violated section 337 by importing certain closet flange rings which induce or contribute to the infringement of claims 1–5, 7–9, 11–14 of U.S. Letters Patent 5,890,239 (''the ''239 patent), entitled ''Method of Reseating a Toilet.''

On April 23, 2001, pursuant to Commission rule 210.18, Jones Stephens filed a motion for summary determination of non-infringement and requested that the investigation be terminated with a finding of no violation of section 337. On June 5, 2001, the ALJ issued an ID (Order No. 7) granting respondent Jones Stephens' motion for summary determination of non-infringement and terminating the investigation.

On June 12, 2001, complainant Pasco filed a petition for review of the ID. On June 15, 2001, respondent Jones Stephens and the Commission's investigative attorney filed responses in opposition to the petition for review.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.42 of rules of practice and procedure, 19 CFR § 210.42.

Copies of the public version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

Issued: June 25, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–16302 Filed 6–27–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request; Categorical Assistance Progress Report

ACTION: Notice of information collection under review; (New collection) categorical assistance progress report.

The Department of Justice, Office of Justice Programs, 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 August 27, 2001.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mike Quinn, 202–616–3508, Office of Administration, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

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 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:* Categorical Assistance Progress Report.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is OJP FORM 4587/1, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federal Government, State, Local or Tribal. *Other:* Individuals or households; not-for-profit institutions.

The Uniform Administrative Requirements for grants and Cooperative Agreements—28 CFR, part 66, and OMB Circular A–110—authorizes the Department of Justice to collect information from grantees to report on project activities and project accomplishments. Grantees that are recipients of discretionary grant (and some formula grant) programs are required by OJP program offices to submit Categorical Assistance Progress Reports on project activities and accomplishments. It is expected that reports will include data appropriate to this stage of project development and in sufficient detail to provide a clear idea and summary of work and accomplishments to date. Progress reports are primarily designed to aid grant managers in carrying out their responsibilities for monitoring grant-

supported activities. The major focus of these reports is the progress achieved on each task in relation to the approved schedule and project milestones for that reporting period. The grantee's review of the project, its functions, and activities are included in the progress report. Generally, progress reports are brief (normally less than five pages) and are in chart form, narrative form, or both. Grantees must include the following information in progress reports submitted to the OJP grant manager:

- Description of the progress made during the reporting period toward accomplishing goals and objectives.
- Changes in the overall project, its objectives, time schedule, organization, or staffing for the period.
- Favorable developments or events which enable the grantee to meet time schedules or milestones sooner than anticipated.
- Any problems, delays, or adverse conditions which have affected or will affect the ability on the grantee to attain project objectives, including the timely submission of products.

Accomplishments during reporting period, such as statistics on measurable project outcomes (e.g., number of people trained, manuals produced, etc.).

- Need for technical assistance relating to programmatic or financial issues.
- Next steps; and other pertinent information including, where appropriate, analysis and explanation of expenditures.

(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 10,366 grantees will each take approximately two hours to complete each semi-annual submission of their Categorical Assistance Progress Report form for a total of four hours annually per grantee. A progress report is required for each current grant that a grantee has.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the progress report forms is 41,464 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 Avenue, NW., Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: June 22, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 01–16233 Filed 6–27–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request; Victimization of People With Disabilities Study

ACTION: Notice of information collection under review: New collection; Victimization of People With Disabilities Study.

The Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 21, 2001, Volume 66, page 15889, allowing for a 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments until July 30, 2001. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice,especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 1220, 1331 Pennsylvania Avenue, NW., Washington, DC 20530.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component'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:

(1) *Type of information collection:* New Collection.

(2) *The title of the form/collection:* The Victimization of People With Disabilities Study.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* NCVS–1, NCVS–2, Modified NCVS–1, and Modified NCVS–2.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals. The Victimization of People With Disabilities Study will interview approximately 200 persons with developmental disabilities, age 12 or older, using existing questionnaires and modified standard questionnaires to test suitability of the standard and modified questionnaires for a population of developmentally disabled individuals. Additionally, the test will evaluate U.S. Bureau of the Census interviewer training program for collecting victimization data from persons with disabilities.

Other: None.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 200 respondents at 1 hour per interview.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 200 hours burden.

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, 1331 Pennsylvania Avenue, NW., Washington, DC 20530.

Dated: June 20, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 01–16234 Filed 6–27–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

[OJP(BJS)–1321]

Criminal Victimization in Indian Country

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: The purpose of this notice is to announce a public solicitation to make awards to conduct criminal victimization surveys in Indian Country.

DATES: Proposals must be received at the Bureau of Justice Statistics (BJS) on or before 5 p.m. EST, Monday, August 13, 2001 or be postmarked on or before August 13, 2001.

ADDRESSES: Proposals should be mailed to Marika Litras, Statistician, Bureau of Justice Statistics, 810 Seventh Street, NW, Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Marika Litras, Statistician, Bureau of Justice Statistics, 810 Seventh Street, NW, Washington, D.C. 20531; Phone: (202) 514–4272 [This is not a toll free number]; Email: Marika.Litras@usdoj.gov

SUPPLEMENTARY INFORMATION:

Statutory Authority

The awards made pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with the provisions of 42 U.S.C. 3732.

Program Goals

The purpose of these awards is to provide funding to conduct criminal victimization studies in up to five American Indian and Alaska Native jurisdictions, reservations, tribal areas, or tribal lands. Special emphasis will be made to collect detailed information on the role of alcohol in violent crime victimizations and the characteristics of domestic violence incidents. BJS encourages the use of the Crime Victimization Survey (CVS) software, developed by BJS and the Office of Community Oriented Policing Services (COPS), which contains the survey platform used by the National Crime Victimization Survey (NCVS). The CVS is designed to allow users to modify it for local use for data collection via telephone or in-person contact.

BJS anticipates making up to five awards for a 12 month period under this solicitation. A total of $500,000 will be made available under this solicitation. It is anticipated that one local criminal victimization study can be completed for approximately $100,000.

Background

The implementation of criminal victimization surveys in Indian Country[1] is part of a muti-faceted effort by BJS to expand statistical activities related to American Indian and Alaska Native crime and justice issues. To date, little is known about the nature and extent of violent victimizations among American Indians and Alaska Natives residing in Indian Country. Existing knowledge has been gleaned largely from nationally representative samples of persons, households, or summary compilations of national arrest data.

National level findings from the National Crime Victimization Survey (NCVS), for example, suggest that American Indians experience per capita rates of violence which are more than twice those of the U.S. resident population, that violent crime committed against Indians may be among the most interracial when compared to crimes against Whites and Blacks, and that there is a relatively high rate of alcohol use among offenders. Data from the Supplementary Homicide Report of the Federal Bureau of Investigation (FBI) further suggest that American Indian murder victims are more likely than non-American Indian murder victims to have been killed during a brawl involving alcohol or drugs. Further information about American Indians, victimization and crime using nationally representative samples and data collections can be found in the BJS report, *American Indians and Crime* (February 1999) at <http://www.ojp.usdoj.gov/bjs/abstract/aic.htm> and *Violent Victimization and Race, 1993–98* (March 2001) at <http://www.ojp.usdoj.gov/bjs/abstract/vvr98.htm>.

Analyses of these national data collections are significant, for they provide initial estimates of crime and victimization among American Indians at the national level. They also provide a baseline from which to compare other estimates of crime and victimization in Indian country. Because of their national scope, however, nationally representative sample surveys such as the NCVS are limited in their ability to describe small population subgroups (such as American Indians and Alaska Natives) in detail. Most importantly, they have not provided separate estimates of crime and victimization for individual American Indian tribes, Alaska Native villages, or those living in Indian County.

[1] Includes American Indian jurisdictions, reservations, tribal areas or tribal lands, in addition to areas established as reservations or trust areas for natives peoples of Alaska.

Given the lack of high-quality estimates of violent victimization at the tribal level, localized studies are needed to examine, in more detail, issues revealed in national surveys such as the characteristics and circumstances of violent victimization in Indian Country, the role of alcohol in violent victimizations, the characteristics of domestic violence incidents, and the types of crime that go unreported to tribal law enforcement authorities. Such specific information would help tribes develop tailored and effective crime prevention strategies in Indian Country.

Scope of Work

The objective of this project is to fund criminal victimization studies in up to five American Indian and Alaska Native jurisdictions in the U.S. Specifically, recipients of funds will:

1. Conduct a criminal victimization survey measuring the incidence, prevalence and characteristics of criminal victimization in one or more selected Indian Country locations. Special emphasis should be placed on the role of alcohol in violent crime victimization and the characteristics of domestic violence incidents. Use of the Crime Victimization Survey (CVS) software developed by BJS and the Office of Community Oriented Policing Services (COPS) is preferred. Information about this Windows-based software can be obtained on the BJS website at <http://www.ojp.usdoj.gov/bjs/abstract/cvs.htm>. The software and technical assistance can be obtained by contacting the BJS Clearinghouse at 1–800–732–3277 or by e-mail to <ASKBJS@ncjrs.org>. The Crime Victimization Listserv is also available for CVS users. Contact <ASKBJS@ncjrs.org> for more information about joining the Listserv.

2. Produce a final publication that reports findings from the survey as well as appropriate methodological detail necessary for others to replicate the survey findings. In addition to the statistical analysis, the publication should include a brief profile of the tribal jurisdiction surveyed, the tribal (and state, if applicable) criminal justice system, and existing crime prevention programs.

3. Conduct a presentation of the survey findings and disseminate related publications at two tribal meetings (one national and one local or regional) and at BJS along with other funded recipients under this grant. Presentations should focus on the planning, methodology, and implementation of the survey and should demonstrate the utility of the survey in documenting crime and

identifying priorities for crime prevention in the tribe surveyed.

4. Deliver to BJS electronic versions of the survey data, documentation and related publications on diskette and in ASCII text file format. Survey documentation should include, but is not limited to, a description of the sampling plan, respondent selection, weighting, a comprehensive codebook detailing variable positions, data coding, variable and value labels, any recoding implemented during the data cleaning process, methods used for dealing with missing data, any data allocation, imputation, or non-response adjustment, and copies of all program code used to generate published statistics. All reports from this survey data may be posted on the BJS website, and data archived for public use at the Inter-University Consortium for Political and Social Research (ICPSR).

Award Procedures and Evaluation Criteria

Proposals should describe the plan and implementation strategies outlined in the Scope of Work. Applications will be reviewed competitively by a panel comprised of members selected by BJS which will make recommendations to the Director of BJS. The applicant will be evaluated on the basis of:

1. Demonstrated knowledge of the theoretical and practical issues related to criminal victimization and its measurement through the use of sample surveys. Applicants should demonstrate applied knowledge of sampling and sample designs, survey construction, interview techniques, validity and reliability of indicators, weighting, and significance testing. In addition, applicants should be well versed in the issues related to existing victimization surveys, including but not limited to, the National Crime Victimization Survey (NCVS), the BJS City-Level Survey of Crime Victimization and Citizen Attitudes, and the National Violence Against Women Survey. Applicants should be familiar with related material contained in websites maintained by BJS, the Violence Against Women Office (VAWO), and other Office of Justice Programs' bureaus and offices.

2. Specific knowledge of issues related to collecting victimization data about less reported crimes such as rape, domestic and intimate partner violence, and the role of alcohol for both offenders and victims in criminal victimization incidents.

3. Knowledge of the tribal justice issues and impediments to implementing a criminal victimization survey in the selected Federally recognized tribe. Applicants must demonstrate the ability to coordinate and facilitate trust and cooperation among tribal members participating in the survey, and must detail the appropriate survey methods to access the tribal population (e.g., sampling plan, telephone or in-person interviews) that will ensure a statistically sound and representative sample. Applicant should submit a letter of support from an authorized tribal official to demonstrate prior approval to carry out the survey in the selected tribal jurisdiction.

4. Demonstrated ability to analyze, publish, and disseminate professional reports using complex survey data. Demonstrated ability to make effective oral presentations of survey findings and ability to convey the utility of survey results to the development of crime prevention strategies and programs.

5. Demonstrated fiscal, management, staff, and organizational capability to provide sound management for this project.

Application and Award Process

An original and five (5) copies of the full proposal must be submitted including:

- Standard Form 424, Application for Federal Assistance
- OJP Form 7150/1, Budget Detail Worksheet
- OJP Form 4000/3, Program Narrative and Assurances
- OJP Form 4061/6, Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug Free Workplace Requirements
- OJP Form 7120–1, Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal Funds from the Office of Justice Programs).

These forms can be obtained online from *www.ojp.usdoj.gov/forms.htm.*

In addition, fund recipients are required to comply with regulations designed to protect human subjects and ensure confidentiality of data. In accordance with 28 CFR Part 22, a Privacy Certificate must be submitted to BJS. Furthermore a Screening Sheet for Protection of Human Subjects must be completed prior to the award being issued. Questions regarding Protection of Human Subjects and/or Privacy Certificate requirements can be directed to the Human Subjects Protection Officer (HSPO) at (202) 616–3282 [This is not a toll free number].

Proposals must include a project description and detailed budget. The project narrative should describe activities as discussed in the Scope of Work and address the evaluation criteria. The project narrative should contain a detailed time line for project activities, a description of the questionnaire and survey methodology to be used including defined geographic boundaries, sampling plan and sample size, data collection method, data entry, analysis, and report production procedures. The detailed budget must provide detailed costs including salaries of staff involved in the project and the portion of those salaries to be paid from the award, fringe benefits paid to each staff person, travel costs, supplies required for the project, sub-contractual agreements, and other allowable costs. The grant award will be made for a period of 12 months.

Dated: June 21, 2001.

Lawrence Greenfeld,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 01–16253 Filed 6–27–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Primrose Coal Company #2

[Docket No. M–2001–051–C]

Primrose Coal Company #2, 475 High Road, Ashland, Pennsylvania 17921 has filed a petition to modify the application of 30 CFR 75.1200(d) and (i) (mine maps) to its Buck Mountain Vein Slope (I.D. No. 36–08698) located in Schuylkill County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope; and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner asserts that due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible. The petitioner further asserts that use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing

critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Primrose Coal Company #2

[Docket No. M–2001–052–C]

Primrose Coal Company #2, 475 High Road, Ashland, Pennsylvania 17921 has filed a petition to modify the application of 30 CFR 75.1202 and 75.1202–1(a) (temporary notations, revisions, and supplements) to its Buck Mountain Vein Slope (I.D. No. 36–08698) located in Schuylkill County, Pennsylvania. The petitioner proposes to revise and supplement mine maps annually instead of every 6 months as required, and to update maps daily by hand notations. The petitioner also proposes to conduct surveys prior to commencing retreat mining and whenever a drilling program under 30 CFR 75.388 or plan for mining into inaccessible area under 30 CFR 75.389 is required. The petitioner asserts that the low production and slow rate of advance in anthracite mining make surveying on 6-month intervals impractical. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Coastal Coal Company, LLC

[Docket No. M–2001–053–C]

Coastal Coal Company, LLC, 117 Madison Avenue, Suite B, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Red Star Mine No. 1 (I.D. No. 15–18306), Hip-High Mine No. 1 (I.D. No. 15–17571), Lynn Branch Mine No. 1 (I.D. No. 15–17605), Black Thunder Mine No. 3 (I.D. No. 15–18161), and Koyle Branch Mine No. 1 (I.D. No. 15–07232) all located in Letcher County, Kentucky. The petitioner proposes to use a permanently installed spring-loaded device instead of a padlock on mobile battery-powered equipment to prevent unintentional loosening of battery plugs from battery receptacles and to eliminate hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Coastal Coal Company, LLC

[Docket No. M–2001–054–C]

Coastal Coal Company, LLC, 117 Madison Avenue, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.900 (low-and medium-voltage circuits serving three-phase alternating circuits equipment; circuit breakers) to its Red Star Mine No. 1 (I.D. No. 15–18306), Hip-High Mine No. 1 (I.D. No. 15–17571), Lynn Branch Mine No. 1 (I.D. No. 15–17605), Black Thunder Mine No. 3 (I.D. No. 15–18161), and Koyle Branch Mine No. 1 (I.D. No. 15–07232) all located in Letcher County, Kentucky. The petitioner proposes to install contactors to obtain under-voltage protection in lieu of using circuit breakers. The petitioner has listed in the petition specific procedures that would be followed when its proposed alternative method is implemented. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Mountaineer Coal Development Company d.b.a Marrowbone Development Company

[Docket No. M–2001–055–C]

Marrowbone Development Company, P.O. Box 119, Naugatuck, West Virginia 25685 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Dingess Tunnel No. 1 Deep (I.D. No. 46–08891) located in Mingo County, West Virginia. The petitioner proposes to use 2,400 volt AC-powered continuous mining equipment at its Dingess Tunnel No. 1 Deep Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. Speed Mining, Inc.

[Docket No. M–2001–056–C]

Speed Mining, Inc., 325 Harper Park Drive, Beckley, West Virginia 25801 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its American Eagle Mine (I.D. No. 46–05437) located in Kanawha County, West Virginia. The petitioner proposes to use high-voltage 4,160 volt cables on longwall equipment at its American Eagle Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. Turris Coal Company

[Docket No. M–2001–057–C]

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) to its Elkhart Mine (I.D. No. 11–02664) located in Logan County, Illinois. The petitioner proposes to backfill abandoned shafts with noncombustible materials and then cover with a concrete cap. The cap will then be covered with 18 inches of ''CL'' or ''ML'' soils compacted in 6″ lifts. Then the shaft and cap will be covered with maximum of 6o feet of course refuse. The petitioner states that the backfill materials would be of a nature, and placed in the shaft, in such a manner as to minimize settling. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Excel Mining, LLC

[Docket No. M–2001–058–C]

Excel Mining, LLC, HC 67 Box 615, Pilgrim, Kentucky 41250 has filed a petition to modify the application of 30 CFR 75.360(b)(5) (preshift examination at fixed intervals) Mine No. 3 (I.D. No. 15–08079) located in Pike County, Kentucky. The petitioner proposes to use an alternate method to monitor the quality of air passing the permanent seals that ventilate working sections to ensure constant monitoring of the mine atmosphere when miners are working in a ventilating current that has been used to ventilate a set of seals. The petitioner has outlined specific procedures in the petition that would be followed when its proposed alternative method is implemented. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. Monterey Coal Company

[Docket No. M–2001–059–C]

Monterey Coal Company, 14300 Brushy Mound Road, Carlinville, Illinois 62626 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its No. 1 Mine (I.D. No. 11–00726) located in Macoupin County, Illinois. The petitioner requests a modification of the standard to permit the use of the belt conveyor entry to course intake air to ventilate active working places. The petitioner proposes to install safeguards, such as a carbon monoxide monitoring system in all belt entries used to course air to a working place as part of an early warning fire detection system. The petitioner asserts that the proposed alternative method would provide at

least the same measure of protection as the existing standard.

10. Peabody Energy, Rivers Edge Mining, Inc.

[Docket No. M–2001–060–C]

Peabody Energy, Rivers Edge Mining, Inc., 202 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324–1233 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Rivers Edge Mine (I.D. No. 46–08890) located in Boone County, West Virginia. The petitioner proposes to use high-voltage 2,400 volt trailing cables in the last open crosscut at the working continuous miner section(s). The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

11. Cumberland River Coal Company

[Docket No. M–2001–061–C]

Cumberland River Coal Company, Pardee Complex, P.O. Drawer 109, Appalachia, Virginia 24216 has filed a petition to modify the application of 30 CFR 75.364(b)(2) & (4) (weekly examination) to its Band Mill Mine (I.D. No. 44–06816) located in Wise County, Virginia. Due to deteriorating roof conditions in certain areas of the return air course, traveling the affected area in its entirety to conduct weekly examinations would be unsafe. The petitioner proposes to establish two monitoring stations to evaluate the air entering and leaving the affected area of the return air course, and have a certified person examine the monitoring stations on a weekly basis and record the date, his/her initials, time of examination, and the quantity and quality of air in a book or on a date board that would be maintained on the surface of the mine and made accessible to all interested parties. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

12. Eastern Associated Coal Corp.

[Docket No. M–2001–062–C]

Eastern Associated Coal Corp., 1970 Barrett Court, P.O. Box 1990, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Harris No. 1 Mine (I.D. No. 46–01271) located in Boone County, West Virginia. The petitioner proposes to plan to clean out and prepare oil and gas wells for plugging and to plug all wells that are encountered during normal operations at the Harris No. 1 Mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

13. Tilden Mining Company L.C.

[Docket No. M–2001–003–M]

Tilden Mining Company, L.C., One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219–1410 has filed a petition to modify the application of 30 CFR 56.14131 (seat belts for haulage trucks) to its Tilden Mine (I.D. No. 20–00422) located in Marquette County, Michigan. The petitioner requests a modification of the existing standard to permit an alternate method of compliance for labeling seat belts. The petitioner proposes to equip its haul trucks with seatbelt/driver restraint systems which are manufactured, installed, and labeled in conformance with SAE J800C, SAE J386, subsequent amendments to those recommendations, or any other SAE recommendations applicable to seat belt/driver restraint systems. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 30, 2001. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 21st day of June 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 01–16274 Filed 6–27–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D–10942, et al.]

Prohibited Transaction Exemption 2001–21; Grant of Individual Exemptions; Bank of America (BofA) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bank of America (BofA) Located in Bethesda, Maryland

[Prohibited Transaction Exemption 2001–21; Exemption Application No. D–10942]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the granting to BofA by the Westbrook Real Estate Fund IV, L.P. (LP), a Delaware Limited Partnership, of a first, exclusive, and prior security interest in the capital commitments, reserve amounts and capital contributions (Capital Contributions), whether now owned or after-acquired, of certain employee benefit plans (Plans) investing in the LP; (2) the collateral assignment and pledge by the LP to BofA of its security interest in each Plan's limited partnership interest, whether now owned or after-acquired; (3) the granting by the LP of a first, exclusive, and prior security interest in a borrower collateral account to which all Capital Contributions will be deposited when paid; (4) the granting to BofA by Westbrook Real Estate Partners Management IV, L.L.C., a Delaware limited liability company and the general partner of the LP (the General Partner), of its right to make calls for cash contributions (Drawdowns) under the Amended and Restated Agreement of Limited Partnership of Westbrook Real Estate Fund IV, L.P., dated as of September 15, 2000, where BofA is the representative of certain lenders (the Lenders) that will fund a so-called ''credit facility'' (Credit Facility) providing credit to the LP, and the Lenders are parties in interest with respect to the Plans; and (5) the execution of a partner agreement and estoppel (Estoppel) under which the Plans agree to honor the Drawdowns; provided that (i) the proposed grants, assignments, and Estoppels are on terms no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties; (ii) the decisions on behalf of each Plan to invest in the LP and to execute such Estoppels in favor of BofA, for the benefit of each Lender, are made by a fiduciary which is not included among, and is independent of and unaffiliated with, the Lenders and BofA; (iii) with respect to Plans that may invest in the LP in the future, such Plans will have assets of not less than $100 million[1] and not more than 5% of the assets of such Plan will be invested in the LP; (iv) the General Partner is unrelated to any Plan and any Lender; and (v) on or after December 31, 2000, this exemption is not applicable for any direct or indirect transaction between the AT&T Management Pension Plan and the AT&T Pension Plan and J.P. Morgan Chase & Co. (or any affiliate of J.P. Morgan Chase & Co. that is a party in interest with respect to the AT&T Plans).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on March 21, 2001 at 66 FR 15897.

Effective Date: This exemption is effective September 15, 2000.

Written Comments

The Department received one comment letter with respect to the Notice. The comment letter was submitted by BofA (the Applicant) to report certain facts that had changed since the exemption application was filed.

The Applicant stated that the following six employee benefit plan trusts acquired limited partnership interests in the LP in addition to the trusts listed in the original application: (i) The White Plaza Group Trust; (ii) the UPS Retirement Plan Master Trust; (iii) Leeway & Co., as nominee for the Long-Term Investment Trust; (iv) the U.S. Steel and Carnegie Pension Fund, as Trustee for the Marathon Oil Group Trust; (v) the U.S. Steel and Carnegie Pension Fund, as Trustee for the U.S. Steel Union Trust; and (vi) the U.S. Steel and Carnegie Pension Fund, as Trustee for the U.S. Steel Non-Union Trust.

The following employee benefit plans which are invested in the LP hold assets in these Trusts:

White Plaza Group Trust

1. General Motors Retirement Program for Salaried Employees
2. Delphi Automotive Systems Retirement Program for Salaried Employees
3. General Motors Hourly-Rate Pension Plan
4. Delphi Automotive Systems Hourly-Rate Employees Pension Plan
5. Employees Retirement Plan for GMAC Mortgage Corporation
6. Saturn Individual Savings Plan for Represented Members
7. Saturn Personal Choices Retirement Plan for Non-Represented Team Members

UPS Retirement Plan Master Trust

1. UPS Retirement Plan

Leeway & Co., as Nominee for the Long-Term Investment Trust

1. AT&T Management Pension Plan
2. AT&T Pension Plan

U.S. Steel and Carnegie Pension Fund, as Trustee for the Marathon Oil Group Trust

1. Retirement Plan of Marathon Oil Company
2. Marathon Ashland Petroleum LLC Retirement Plan

U.S. Steel and Carnegie Pension Fund, as Trustee for U.S. Steel Union Trust

1. United States Steel Corporation Plan for Employee Pension Benefits (Revision of 1950)

U.S. Steel and Carnegie Pension Fund, as Trustee for U.S. Steel Non-Union Trust

1. United States Steel Corporation Plan for Non-Union Employee Pension Benefits (Revision of 1998)

The Applicant represented that by April 20, 2001, representatives of the fiduciaries of each of the above Plans were given notice of the proposed exemption, provided with a copy of the Notice, and informed that they had the opportunity to submit comments for a period of 35 days. Accordingly, the Applicant represented that the comment period was extended until May 25, 2001.

The Applicant also wished to clarify that Morgan Guaranty Trust Company (MGT) was the fiduciary who exercised the discretionary authority to cause the AT&T Management Pension Plan and the AT&T Pension Plan (together, the AT&T Plans) to invest in the LP and to execute the Estoppel through Leeway & Company (Leeway), as Nominee for the Long Term Investment Trust (the Long Term Trust). At the time of the investment, MGT was a wholly-owned subsidiary of J.P. Morgan & Co. (J.P. Morgan). J.P. Morgan was independent of all the Lenders. However, J.P. Morgan subsequently merged (the Merger) with The Chase Manhattan Corporation on December 31, 2000. As a result of the Merger, MGT is now a wholly-owned subsidiary of the surviving entity: J.P. Morgan Chase & Co. (Morgan Chase).

The Chase Manhattan Bank (Chase) is the co-syndication agent and a Lender participating in the Credit Facility. At

[1] In the case of multiple plans maintained by a single employer or a single group of employers treated as a single employer under Sections 414(b), 414(c), 414(m), and 414(o) of the Code, the assets of which are invested on a commingled basis (e.g., through a master trust), this $100 million threshold will be applied to the aggregate assets of all such plans.

the time of the investment by the Long Term Trust in the LP, Chase was a wholly-owned subsidiary of the Chase Manhattan Corporation. As a result of the Merger, MGT is now a wholly-owned subsidiary of Morgan Chase. Accordingly, MGT and Chase are included in a brother-sister group of trades or businesses as described in section 1.414(c) of the federal income tax regulations.

The Notice requires as a condition of the proposed exemption that the decisions on behalf of each Plan (as defined in the Notice and including the AT&T Plans) to invest in the Partnership and to execute the Estoppel in favor of BofA, for the benefit of each Lender participating in the Credit Facility, be made by a fiduciary which is not included among, and which is independent of and unaffiliated with, the Lenders and BofA. To avoid the need to consider whether the Merger raises any issues in respect of this condition, the affected parties to the Credit Facility have determined that BofA, as administrative agent, will continue the allocation of collateral set forth in Section 5.1(c) of the Credit Facility in a manner that the AT&T collateral will not be used as collateral for, or the payment of, Chase's interest, fees, or the portion of the Credit Facility attributable to Chase's lending commitment under the Credit Facility.

The effect of such allocation of collateral will be that the interests and rights granted by the AT&T Plans pursuant to Section 5.1(b) of the Credit Facility (the Partner Collateral) will be allocated by BofA in such a manner that Chase will not hold any security interest or lien in the Partner Collateral attributable to the AT&T Plans, and will not receive any payment of its portion of the Credit Facility or any interest or fees from capital contributions attributable to the AT&T Plans. Moreover, any claim for the payment of the Credit Facility, interest or fees brought against the AT&T Plans will be brought by BofA, as administrative agent for the benefit of the Lenders. Thus, Chase will not receive any benefit from the Estoppel executed at the direction of MGT by Leeway & Co., as nominee for the Long Term Trust, on behalf of the AT&T Plans.

In connection with the Credit Facility, Chase could earn interest, an unused commitment fee, and administrative fees. Interest and the unused commitment fee are paid to all Lenders in the Credit Facility on a pro rata basis. The unused commitment fee is similar to interest. It reflects in part the opportunity costs incurred by the Lenders in committing funds to the Credit Facility, just as interest reflects in part the Lenders' opportunity costs in actually funding the Credit Facility. The amount of the unused commitment fee is based on the difference between the money actually borrowed and the amount which the Lenders have committed under the Credit Facility. Chase had already been paid its co-syndication fees prior to the date of the Merger. In the event there was to be a material amendment to the Credit Facility, Chase, as well as other Lenders, could be paid additional interest and/or administrative fees, including a co-syndication fee. However, as a result of the allocation of collateral as described above and the factors described below, the Applicant represents that no prohibited transactions would be created by the payment of such interest or fees.

As suggested in Representation 11 of the Summary of Facts and Representations contained in the Notice (the Summary), the exemption application assumes that the LP is an ''operating company'' under the Department's Plan Asset Regulations.[2] Based on such assumption and the allocation of collateral described above, no amounts which will be received or accrued by Chase in its role as co-syndication agent and Lender were or will be paid from Plan assets; all interest and fees paid to Chase in any capacity in connection with the Credit Facility are usually paid by the LP. In the unlikely event any amount is paid by the limited partners, including the AT&T Plans, then BofA, as administrative agent for the benefit of the Lenders, will allocate the AT&T Plans' capital commitments in a manner to ensure that none of Chase's interest or fees will be paid by assets of the AT&T Plans.

In addition, from and after the date of the Merger, the AT&T Plans' investment (or any decision by MGT to retain the AT&T Plans' investment) in the LP will have no effect on Chase's receipt of any interest or fees. The collateral that secures the Credit Facility sufficiently exceeds the amount customarily required by lenders in similar transactions with similar lending terms. As a result of such over-collateralization and the allocation of collateral, neither the investment by the AT&T Plans in the LP nor their withdrawal from the LP increase or decrease the interest or fees received by Chase in connection with the Credit Facility. Accordingly, Chase will earn any interest or fees arising in connection with the Credit Facility without regard to whether the AT&T Plans remain as a limited partner of the LP.

The Applicant also made an additional clarification regarding the information contained in the Summary. The fourth sentence of Representation 10 of the Summary should be deleted and replaced with the following:

> In this regard, such Plan must be represented by an independent fiduciary, and the General Partner or BofA must receive from the Plan one of the following:
>
> (1) a representation letter from the applicable fiduciary with respect to such Plan substantially identical to the representation letter submitted by the fiduciaries of the other Plans, in which case this proposed exemption, if granted, will apply to the investments made by such Plan if the conditions required herein are met; or
>
> (2) evidence that such Plan is eligible for a class exemption or has obtained an individual exemption from the Department covering the potential prohibited transactions which are the subject of this proposed exemption.

The Applicant requested that the sentence be deleted and replaced with the above in order to provide that the documentation described in items (1) and (2) may be received by either the General Partner or the Applicant. Thus, as a result of this clarification, BofA may also receive the representation letter from the independent fiduciaries of the Plans.

The Applicant requested that the exemption be made retroactive to September 15, 2000, to cover any executions of Estoppels that may have occurred prior to the granting of the exemption.

Finally, the Applicant represented that it is not requesting relief for any direct or indirect transaction between the AT&T Plans and Morgan Chase (or any affiliate of Morgan Chase that is a party in interest with respect to the AT&T Plans). However, the exemption will cover any transaction between the AT&T Plans and the other Lenders.

Accordingly, based on the entire record, the Department has determined to grant the exemption as clarified herein.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

[2] See 29 CFR 2510.3–101(c); Definition of ''plan assets''—plan investments.

Phoenix Home Life Mutual Insurance Company (Phoenix) Located in Hartford, CT.

[Prohibited Transaction Exemption 2001–22; Exemption Application No. D–10943]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply effective as of June 8, 2001, to (1) the receipt of common stock (Stock) of The Phoenix Companies, Inc. (the Holding Company), the parent of Phoenix, or (2) the receipt of cash (Cash) or Policy Credits, by or on behalf of any Eligible Policyholder of Phoenix which is an employee benefit plan (a Plan), including any Eligible Policyholder that is a Plan maintained by Phoenix or its affiliates (Phoenix Plan), in exchange for such Eligible Policyholder's membership interest in Phoenix, in accordance with the terms of a plan of reorganization (the Plan of Reorganization) adopted by Phoenix and implemented pursuant to Section 7312 of the New York Insurance Law.

In addition, effective as of June 8, 2001, the restrictions of section 406(a)(1)(E) and (a)(2) and section 407(a)(2) of the Act shall not apply to the receipt and holding of the Stock, by a Phoenix Plan, whose fair market value exceeds 10 percent of the value of the total assets held by such Plan.

The exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

(a) The Plan of Reorganization is subject to approval, review and supervision by the Superintendent of Insurance of the State of New York (the Superintendent) and is implemented in accordance with procedural and substantive safeguards that are imposed under New York law.

(b) The Superintendent reviews the terms and options that are provided to Eligible Policyholders of Phoenix as part of such Superintendent's review of the Plan of Reorganization and the Superintendent only approves the Plan of Reorganization following a determination that the Plan of Reorganization is fair and equitable to Eligible Policyholders and is not detrimental to the general public.

(c) Each Eligible Policyholder has an opportunity to vote to approve the Plan of Reorganization after full written disclosure is given to the Eligible Policyholder by Phoenix.

(d) Any determination to receive Stock, Cash or Policy Credits by an Eligible Policyholder which is a Plan, pursuant to the Plan of Reorganization, is made by one or more Plan fiduciaries which are independent of Phoenix and its affiliates and neither Phoenix nor any of its affiliates exercises any discretion or provides investment advice, within the meaning of 29 CFR 2510.3–21(c), with respect to such decisions.

(e) In the case of the Phoenix Plans, an independent fiduciary with respect to the Phoenix Plans:

(1) Exercises its authority and responsibility to vote on behalf of the Phoenix Plans at the special meeting of Eligible Policyholders on the proposal to approve the Plan of Reorganization;

(2) Monitors, on behalf of the Phoenix Plans, the acquisition and holding of any Stock, Cash or Policy Credits received;

(3) Makes determinations on behalf of the Phoenix Plans with respect to the voting and continued holding of any Stock held by such Plans until such holding is reduced so that it does not exceed the limits of section 407(a) of the Act;

(4) Disposes of Stock exceeding the limits of section 407(a) of the Act within six months of the effective date of the Plan of Reorganization.

(5) Provides the Department with a complete and detailed final report as it relates to the Phoenix Plans prior to the effective date of the demutualization.

(f) After each Eligible Policyholder entitled to receive Stock is allocated 37 shares of Stock (subject to possible adjustment as provided in the Plan of Reorganization), additional consideration is allocated to each Eligible Policyholder who owned participating policies based on actuarial formulas that take into account each participating policy's contribution to the surplus of Phoenix, which formula has been approved by the Superintendent.

(g) All Eligible Policyholders that are Plans participate in the transactions on the same basis as all Eligible Policyholders that are not Plans.

(h) No Eligible Policyholder pays any brokerage commissions or fees in connection with the receipt of Stock or in connection with the implementation of the commission-free purchase and sale program.

(i) All of Phoenix's policyowner obligations remain in force and are not affected by the Plan of Reorganization.

(j) The terms of the transaction are at least as favorable to the Plans as an arm's-length transaction with an unrelated party.

Section III. Definitions

For purposes of this exemption:

(a) An ''affiliate'' of Phoenix includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Phoenix. (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual), and

(2) Any officer, director or partner in such person.

(b) The term ''Eligible Policyholder'' means a person who is (or collectively, persons who are) the owner(s) of one or more policies that are in force on the date of the adoption of the Plan of Reorganization.

(c) The term ''Phoenix'' means Phoenix Home Life Mutual Insurance Company and any of its affiliates, as defined in paragraph (a) of this Section III.

(d) The term ''Policy Credit'' means (a) for an individual or joint participating whole life insurance policy, the crediting of paid-up additions which will increase the cash value and death benefit of the policy; (b) for supplementary contracts issued under optional modes of settlement or annuities in the course of installment payment without a defined account value and that provide for the payment of additional interest, the crediting of an additional amount in the form of additional interest; (c) for supplementary contracts issued under optional modes of settlement or annuities in the course of installment payment without a defined account value not providing for the payment of additional interest, an increase in the installment payment amount; and (d) for all other individual or joint life policies and annuities, (i) if the policy or contract has a defined account value, an increase in the account value, to which the Company will apply no sales, surrender or similar charges, or that will be further increased in value to offset any of these charges, or (ii) if the policy or contract does not have a defined account value, the crediting of dividends under the policy or contract.

Effective Date: This exemption is effective June 8, 2001.

Written Comments

The Department received seven written comments with respect to the proposed exemption. Six comments were submitted by Plan policyholders of Phoenix. The seventh comment was submitted by Phoenix, and contained

only technical corrections to update factual information provided in the Summary of Facts and Representations included as part of the proposed exemption. The policyholders' comments, as well as the comments submitted by Phoenix, are discussed below.

Policyholder's Comments

As noted above, six policyholders submitted comments with respect to the proposed exemption. Three of the policyholders indicated concern that the demutualization would affect retirement benefits owed to them under Phoenix policies. In response, Phoenix emphasizes that the demutualization will not in any way cause a loss or a reduction in the benefits paid pursuant to Phoenix policies.

One policyholder expressed doubts as to the benefit to Phoenix of the plan of demutualization. In response, Phoenix states that converting to a stock life company will increase Phoenix's potential for long-term growth and financial strength in ways not available to it as a mutual company. Phoenix acknowledges that, as in all business ventures, there are risks. However, Phoenix asserts that as a stock company, it will be better able to attract needed capital and offer additional financial products and services to its policyholders. In sum, Phoenix states that the demutualization will make it a stronger, more flexible company.

One policyholder commented that the disclosure information provided by Phoenix did not describe with sufficient clarity the transaction with respect to which Phoenix desires an exemption. In response, Phoenix references the Policyholder Information Booklet, Part I, which contains the following description of the transaction:

Section 406 of ERISA and Section 4975 of the Code prohibit employee benefit plans from engaging in certain transactions with ''parties in interest'' and ''disqualified persons.'' If Phoenix is a ''party in interest'' with respect to an employee benefit plan under ERISA or a ''disqualified person'' under the Code, the receipt of Compensation in exchange for the Policyholders' Membership Interests owned by an Eligible Policyholder with respect to such employee benefit plan could be viewed as prohibited. Phoenix has applied to the U.S. Department of Labor for an administrative exemption to cover such transactions.

Finally, one policyholder submitted a comment that was determined not to be germane to the requested exemption.

Phoenix's Comment

The Department notes the following clarifications made to the Summary of Facts and Representations by Phoenix:

1. Representation 1. In the fourth paragraph of Representation 1, it is stated that Holdings has an approximate 60% ownership interest in publicly traded Phoenix Investment Partners, Ltd. (PXP). Phoenix wishes to clarify this to state that Holdings is now the sole owner of PXP.

2. Representation 2. Phoenix wishes to revise the fourth paragraph of Representation 2 in a number of respects. Phoenix clarifies that the Phoenix Plans are employee benefit plans sponsored by Phoenix, PXP and a PXP subsidiary, Pasadena Capital Corporation. Phoenix states that, with respect to subparagraphs (e) and (f), the actuaries have determined that the Phoenix Home Life Mutual Insurance Company Employee Group Life Insurance Plan and the Phoenix Home Life Mutual Insurance Company Agent Group Life Insurance Plan were not be entitled to any demutualization compensation. Therefore they should not be included in the list of Phoenix Plans which are expected to be Eligible Policyholders. With respect to subsection (g) (redesignated as (e) below), Phoenix notes that the Phoenix Investment Partners Ltd. Group Profit Sharing Plan and Trust was terminated effective March 19, 2001, and that the demutualization proceeds will be used to pay a small portion of the legal expenses for obtaining an IRS determination letter. With respect to subsections (h) and (i) (redesignated as (f) and (g) below), Phoenix states that the Phoenix Investment Partners, Ltd. Group Life Insurance Plan and the Phoenix Investment Partners, Ltd. Group Long Term Disability Plan were terminated effective December 31, 2000, and the demutualization proceeds received by those plans which constitute plan assets will be used to reduce participants contributions under essentially similar plans maintained by Phoenix and in which PXP employees participate. Finally, Phoenix adds the Pasadena Capital Corporation Major Medical and Dental Treatment Plans (the Pasadena Plans), welfare plans, to the listing of plans which are considered Phoenix Plans. As of December 31, 1999, the Pasadena Plans had 87 participants.

Accordingly, as revised, the fourth paragraph of Representation 2 reads as follows:

Phoenix, PXP, and a PXP subsidiary, Pasadena Capital Corporation, sponsor the following Plans, which are expected to be Eligible Policyholders (collectively referred to herein as the ''Phoenix Plans''):

(a) The Phoenix Home Life Mutual Insurance Company Employee Pension Plan (the Pension Plan) is a defined benefit pension plan. As of December 31, 1999, the Pension Plan had approximately 6,160 participants.

(b) The Phoenix Home Life Mutual Insurance Company Savings and Investment Plan (the Savings Plan) is a defined contribution plan. As of December 31, 1999, the Savings Plan had 3,002 participants.

(c) The Phoenix Home Life Mutual Insurance Company Agent Pension Plan (the Agent Pension Plan) is a defined contribution plan. As of December 31, 1999, the Agent Pension Plan had 1,024 participants.

(d) The Phoenix Home Life Mutual Insurance Company Agent Savings and Investment Plan (the Agent Savings Plan) is a defined contribution plan. As of December 31, 1999, the Agent Savings Plan had 535 participants.

(e) The Phoenix Investment Partners, Ltd. Group Profit Sharing Plan and Trust (the PXP Profit Sharing Plan) is a defined contribution plan. As of December 31, 1999, the PXP Profit Sharing Plan had 193 participants. The PXP Profit Sharing Plan was terminated effective March 19, 2001. The anticipated distribution will be used to pay a small portion of the legal expenses for obtaining an IRS determination letter.

(f) The Phoenix Investment Partners, Ltd. Group Life Insurance Plan (the PXP Group Life Plan) is a welfare benefit plan. As of December 31, 1999, the PXP Group Life Plan had 493 participants. The PXP Group Life Plan was terminated effective December 31, 2000. Consideration received by the plan which constitutes plan assets will be used to reduce participants' contributions under essentially similar plans maintained by Phoenix and in which PXP employees participate.

(g) The Phoenix Investment Partners, Ltd. Group Long Term Disability Plan (the PXP Long Term Disability Plan) is a welfare benefit plan. As of December 31, 1999, the PXP Long Term Disability Plan had 359 participants. The PXP Long Term Disability Plan was terminated effective December 31, 2000. Consideration received by the plan which constitutes plan assets will be used to reduce participants' contributions under essentially similar plans maintained by Phoenix and in which PXP employees participate.

(h) The Pasadena Capital Corporation Major Medical and Dental Treatment Plans (the Pasadena Plans) are welfare

benefit plans. As of December 31, 1999, the Pasadena Plans had 87 participants.

After giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption. In this regard, the comment letters submitted to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

For Further Information Contact: Karen Lloyd of the Department, telephone (202) 219–8194. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of June, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–16236 Filed 6–27–01; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10935, et al.]

Proposed Exemptions; The Walston & High, P.A. Profit Sharing Plan (the Plan) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The Walston & High, P.A. Profit Sharing Plan (the Plan) Located in Wilson, North Carolina

[Application No. D–10935]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Sale (the Sale) by the Plan to A.J. Walston and Arthur T. High, the trustees of the Plan (the Trustees), of three parcels of improved real property (the Parcels). This proposed exemption is conditioned upon adherence to the material facts and representations described herein

and upon the satisfaction of the following requirements:

(a) The Sale is a one-time transaction for cash;

(b) The Plan does not pay any commissions, costs or other expenses in connection with the Sale; and

(c) The Plan will receive an amount equal to the greater of:

(i) $234,000; or (ii) The current fair market value of the Property, as established by an independent, qualified, appraiser at the time of the Sale.

Summary of Facts and Representations

1. Walston & High, P.A., the sponsor of the Plan, is a certified public accounting company located in Wilson, North Carolina. The Plan is a defined benefit pension plan which, as of September 27, 2000, has 5 participants. The Plan's assets have an aggregate fair market value of $727,102.04.

2. The Plan's real property holdings consist of three parcels of real property. The Parcels have an estimated fair market value of $234,000 and constitutes approximately 32% of the total value of Plan assets.

3. The Trustees represent that the Sale is in the interest of the Plan, and its participants and beneficiaries. The Trustees represent that they are seeking to terminate the Plan and that the Parcels cannot be subdivided to achieve a distribution of assets. The Trustees have attempted to sell the Parcels to unrelated third parties but have been unsuccessful. As a result the Trustees are seeking to purchase the Parcels from the Plan for cash, allowing the Plan to distribute the assets upon termination. There will be no commissions, costs or other expenses incurred by the Plan in connection with the Sale.

4. The Parcels consist of:

A 862 square foot parcel of improved real property located at 1112 Churchill Avenue, Wilson, North Carolina (Churchill). The property was acquired by the Plan for investment purposes on September 12, 1979 for $27,584.23 from an unrelated third party. The property has generated a net income of $19,235 from 1990 through 1999;

A 1,670 square foot parcel of improved real property located at 401–403 Maplewood Avenue, Wilson, North Carolina (Maplewood). The property was acquired by the Plan for investment purposes on August 27, 1976 for $35,600.86 from an unrelated third party. The property has generated a net income of $37,987 from 1990 through 1999; and

A 3,264 square foot parcel of improved real property located on 2213 Candlewood Drive, Wilson, North Carolina (Candlewood). The property was acquired by the Plan for investment purposes on January 30, 1981 for $132,500 from an unrelated third party. The property has generated a net income of $112,781 from 1990 through 1999. [1]

5. The Property was appraised (the Appraisal) on July 19, 2000, by Fred W. Morgan (Mr. Morgan), a North Carolina state Certified Residential Real Estate Appraiser. Mr. Morgan is independent of the Employer and is an appraiser with the Bissette Appraisal Services located in Wilson, North Carolina.

Mr. Morgan determined the best use and highest value of the Property was associated with valuing the Property with the so-called direct sales comparison method. In this method, sales of similar use land in the market area are compared to the subject to arrive at an indication of value. In arriving at value conclusions, the tracts are compared as to the rights conveyed, financing terms, sale conditions, market conditions, location, and physical characteristics. Therefore, based on the valuation procedure, the fair market value of the Parcels was determined as follows: (i) Churchill = $39,000; (ii) Maplewood = $62,500; and (iii) Candlewood = $132,500. Therefore, the total fair market value of the Parcels is $234,000 as of July 19, 2000 ($39,000 + $62,500 + $132,500 = $234,000). The Plan will receive an amount equal to the greater of: (i) $234,000; or (ii) The current fair market value of the Property, as established by an independent, qualified, appraiser at the time of the Sale.

6. In summary, the Trustees represent that the subject transaction satisfies the statutory criteria contained in section 408(a) of the Act and section 4975(c)(2) of the Code for the following reasons:

(a) The Sale is a one-time transaction for cash;

(b) The Plan does not pay any commissions, costs or other expenses in connection with the Sale; and

(c) The Plan will receive an amount equal to the greater of:

(i) $234,000; or (ii) The current fair market value of the Property, as established by an independent, qualified, appraiser at the time of the Sale.

Notice to Interested Persons: Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and Department within 15 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of the notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 219–8883 (this is not a toll-free number).

[1] The applicant has provided consolidated net income statements for the Parcels from 1977 through 1989. These statements indicate that during this time period the Parcels generated net income of $140,244.

Retirement Plan of Dime Bancorp, Inc. (The Dime Plan); Retirement 401(k) Plan of Dime Bancorp, Inc. (the Dime 401(k) Plan); North American Mortgage Company Retirement and 401(k) Savings Plan (the NAMCO Plan); and Lakeview Savings Bank Employee Stock Ownership Plan (the ESOP; together, the Plans) Located in New York, New York

[Application Nos. D–10962 through D–10965]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, as of December 29, 2000, to: (1) The past receipt by the Plans of certain Litigation Tracking Warrants (the Warrants) pursuant to the distribution of Warrants (the Warrant Distribution) by Dime Bancorp, Inc. (Dime) to all of its common stockholders as of December 22, 2000 (the Record Date); [2] (2) the past and proposed future holding of the Warrants by the Plans; and (3) the disposition or exercise of the Warrants by the Plans; provided that the following conditions are satisfied:

(A) The Plans' acquisition and holding of the Warrants resulted from an independent act of Dime as a corporate entity, and all holders of

[2] In addition to all of Dime's common stockholders as of December 22, 2000 receiving Warrants pursuant to the Warrant Distribution, any person or entity (including the Plans) who brought the common stock of Dime (the Stock) during the period from December 20, 2000 through December 29, 2000 received such Stock with certain accompanying ''due bills'' reflecting the seller's obligation to deliver Warrants to the buyer upon the seller's receipt of such Warrants pursuant to the Warrant Distribution, and therefore also received Warrant's in connection with such purchases of Stock. Accordingly, the exemption proposed herein shall also apply to the acquisition, holding, disposition and exercise of Warrants acquired by the Plans in connection with the purchase of Stock with due bills.

Stock, including the Plans, were treated in a like manner with respect to the Warrant Distribution (with the exception of one holder of Stock, who did not receive Warrants);

(B) With respect to Warrants allocated to the Dime 401(k) Plan and the NAMCO Plan, the Warrants were acquired solely for the accounts of participants who had directed investment of all or a portion of their account balances in Stock pursuant to Plan provisions for individually-directed investment of participant accounts;

(C) With respect to Warrants allocated to the Dime Plan and the ESOP, the authority for all decisions regarding the holding, disposition or exercise of the Warrants by such Plans will be exercised by an independent fiduciary acting on behalf of such Plans; and

(D) With respect to Warrants allocated to the Dime 401(k) Plan and the NAMCO Plan, all decisions regarding the holding, disposition or exercise of the Warrants have been, and will continue to be made, in accordance with Plan provisions for individually-directed investment of participant accounts, by the individual Plan participants whose accounts in the Plan received Warrants in connection with the Warrant Distribution, including all determinations regarding the exercise or sale of the Warrants received through the Warrant Distribution,[3] except for those participants who fail to file timely and valid instructions concerning the exercise of the Warrants, with respect to whom the Warrants allocated to their accounts will, to the extent a public trading market for the Warrants exists, be sold.

Effective Date: This exemption, if granted, will be effective as of December 29, 2000.

Summary of Facts and Representations

1. Dime is a Delaware corporation and a savings and loan holding company with its headquarters located in New York, New York. Dime is the parent of the Dime Savings Bank of New York, FSB (Dime Savings), a federally chartered bank currently serving consumers and businesses in the greater New York City metropolitan area. Through Dime Savings and its subsidiaries, including North American Mortgage Company (i.e., NAMCO), Dime provides consumer loans, insurance products and mortgage banking services throughout the United States.

2. On December 29, 2000, Dime distributed the Warrants to all of its holders of common stock (i.e., the Stock), par value $0.01 per share.[4] The Warrants are litigation tracking warrants to purchase shares of Stock at an exercise price of $.01 per share of Stock that will be issued in connection with a warrant exercise (the Exercise Price) during a period of 60 days after the holders of the Warrants are given notice of the occurrence of the Triggering Event (as defined in representation 6, below). If the Warrants are not exercised by the end of the 60-day period (the Expiration Date), they will lapse and be canceled. The Warrants have been approved for listing as separately tradeable on the NASDAQ National Market under the trading symbol ''DIMEZ.'' The Stock is currently traded on the New York Stock Exchange under the trading symbol ''DME.''

3. The Warrants are referred to as ''Litigation Tracking Warrants'' because the number of shares of Stock for which the Warrants will be converted will depend upon Dime's recovery, if any, in connection with a lawsuit that Dime, as the successor to Anchor Savings Bank FSB (Anchor), maintains in the United States Court of Federal Claims (the Claims Court) against the United States (U.S.) government, whereby it alleges a breach of contract and the taking of property without compensation in contravention of the Fifth Amendment to the U.S. Constitution (the Goodwill Litigation). The action arose because of Anchor's assertion that the passage of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and the regulations adopted by the Office of Thrift Supervision pursuant to FIRREA, deprived Anchor of the ability to include supervisory goodwill and certain other assets when computing its regulatory capital. The Federal Savings and Loan Insurance Corporation had previously agreed to let Anchor use such assets when computing its regulatory capital ratios. The direct effect was to cause Anchor to go from an institution that substantially exceeded its regulatory capital requirements to one that was critically undercapitalized upon the effectiveness of the FIRREA-mandated capital requirements. Dime has asked the Claims Court to enter partial summary judgment against the U.S. government based on the existence of a contract between the U.S. government and Dime and the inconsistency of the government's actions with respect to that contract. If the Claims Court grants Dime's request, Dime will then present the evidence as to damages. It is believed that Dime may receive a potentially large recovery of damages in connection with the Goodwill Litigation.[5]

4. The Warrants will, upon the Triggering Event, entitle the holders thereof to purchase shares of Stock with an aggregate market value equal to the Adjusted Litigation Recovery (as defined in representation 5, below), if any. Each Warrant will be exercisable at a fixed Exercise Price for the number of shares of Stock with a market value equal to the Adjusted Litigation Recovery divided by the number of Warrants issued or reserved for issuance on the Record Date, with cash to be paid for fractional shares resulting from a holder's Warrant exercise.

5. The ''Adjusted Litigation Recovery'' will equal 85%[6] of the amount obtained from the following equation:

(a) The aggregate amount of any cash payment and the fair market value of any property actually received by Dime pursuant to a final, non-appealable judgment in or final settlement of the Goodwill Litigation (including any post-judgment interest actually received by

[3] On January 1, 2001, the NAMCO Plan was merged with and into the Dime 401(k) Plan. As a result, for a period of time, there was temporary administrative freeze period (the Freeze Period) during which former participants of the NAMCO Plan (the Former NAMCO Participants) could not direct the investment of their accounts under the Dime 401(k) Plan, including any Warrants allocated to such accounts. During such Freeze Period, an independent fiduciary had the authority to hold, sell or exercise (to the extent the Warrants were then exercisable) all of the Warrants transferred from the NAMCO Plan and allocated to the accounts of the Former NAMCO Participants under the Dime 401(k) Plan. Once the Freeze Period ceased, the Former NAMCO Participants immediately regained the ability to direct the investment of their accounts under the Dime 401(k) Plan, including any Warrants allocated to such accounts.

[4] Warburg Pincus Equity Partners, L.P. (Warburg) recently made an aggregate $238 million investment in Dime for which it received 13,607.664 shares of series B junior voting preferred stock (series B Stock) of Dime, as well as warrants to purchase 8,142.738 shares of Series C junior nonvoting preferred stock (Series C Stock) and warrants to purchase 5,464.926 shares of Series D junior nonvoting preferred stock (Series D Stock). Each share of Series B Stock has the same economic rights equivalent to 1,000 shares of Stock subject to antidilution adjustments. The shares of Series B Stock will convert into restricted shares of Stock upon, among other events, the distribution of the Warrants. Each share of Series C and Series D Stock will also have the economic rights equivalent to 1,000 shares of Stock. However, one of the terms of Warburg's investment was that it would not receive any Warrants with respect to the shares it acquired or will thereby acquire.

[5] By proposing this exemption, the Department is providing no opinion or comment on, or support for, the merits of the allegations made against the U.S. government with respect to the Goodwill Litigation. The purpose of this proposed exemption, if granted, is merely to facilitate the rights and benefits inuring to the Plans through the receipt of the Warrants as holders of the Stock in order to capitalize on whatever economic value the Warrants may have.

[6] Dime will retain the remaining 15%, and will not issue shares in connection with it.

Dime on any cash payment) (the Total Payment), minus

(b) The sum of the following: (i) The aggregate expenses incurred previously and hereafter by Dime in prosecuting the Goodwill Litigation and obtaining the Total Payment, (ii) the aggregate expenses incurred by Dime in connection with the creation, issuance and trading of the Warrants, and (iii) an amount equal to the net Total Payment (Total Payment less the expenses described in the preceding clauses (i) and (ii)) multiplied by the highest, combined statutory rate of federal, state and local income taxes applicable to Dime during the tax year in which the full total payment is received.

6. The ''Triggering Event'' is defined as the occurrence of all of the following: (i) receipt by Dime of the full Total Payment, (ii) calculation by Dime of the full amount of the Adjusted Litigation Recovery, and (iii) Receipt of all regulatory approvals necessary to issue the shares of Stock to be issued upon the exercise of the Warrants, including the effectiveness of a registration statement relating to the issuance of such Stock under the Securities Act of 1933, as amended.

7. Once the Triggering Event occurs, Dime will publicly announce, by means of a press release and by written notice mailed to each holder of Warrants: (i) That the Triggering Event has occurred, (ii) the aggregate number of shares for which the Warrants are exercisable, (iii) the number of shares of Stock for which each Warrant is exercisable, (iv) the exercise price per Warrant, (v) the manner in which the Warrants are exercisable, and (vi) the Expiration Date.

8. Dime sponsors the Dime Plan and the Dime 401(k) Plan, while Dime Savings sponsors the Lakeview ESOP and NAMCO sponsors the NAMCO Plan. Dime Savings is a wholly-owned subsidiary of Dime, and NAMCO is a wholly-owned subsidiary of Dime Savings. All or a portion of the assets of each of the Plans is invested in the Stock. The Dime Plan currently has approximately 5,234 participants and $182,039,800 in total assets, and the Stock represents approximately 10.5% of the assets of the Dime Plan. The Dime 401(k) Plan has approximately 3,000 participants and total assets of approximately $147,955,000, and the Stock represents approximately 15% of its total assets. The NAMCO Plan had approximately 3,160 Former Participants at the time of its merger into the Dime 401(k) Plan. The NAMCO Plan had approximately $68,080,600 in total assets, and the Stock represented approximately 0.72% of the NAMCO Plan's assets. The ESOP has approximately 57 participants and approximately $8,193,745 in total assets. The Stock represents approximately 96% of the fair market value of the assets of the ESOP. As shareholders of Dime, each of the Plans will receive Warrants in the same manner as all other shareholders of Dime.[7]

9. The assets of the Dime 401(k) Plan and the NAMCO Plan are held in accounts for which investments are participant-directed among various investment funds, one of which is a fund invested in Stock. With respect to accounts of participants in these two plans (which were merged on January 1, 2001, as described in representation 10, below), and except as provided below, participants will make all decisions regarding the disposition or exercise of the Warrants allocated to their accounts (with, and as is the case with other investments under the Plans, absence of affirmative instruction deemed to be direction to continue to hold the Warrants). If the participants do not direct the disposition or exercise of the Warrants prior to the Expiration Date, the Warrants will be sold by the trustee for the particular Plan so that they do not lapse without receipt of some value, assuming there is then a market for the Warrants.

10. As noted in footnote 2, on January 1, 2001, the NAMCO Plan was merged with and into the Dime 401(k) Plan. As a result, for a period of time, there was an administrative Freeze Period during which former participants of the NAMCO Plan (the Former NAMCO Participants) could not direct the investment of their accounts under the Dime 401(k) Plan, including any Warrants allocated to such accounts. During the Freeze Period, HSBC Bank USA (HSBC), acting as an independent fiduciary with respect to such accounts, had the authority to hold, sell or exercise (to the extent the Warrants were then exercisable) all of the Warrants transferred from the NAMCO Plan and allocated to the accounts of the Former NAMCO Participants under the Dime 401(k) Plan. Once the Freeze Period ceased, the Former NAMCO Participants immediately regained the ability to direct the investment of their accounts under the Dime 401(k) Plan, including any Warrants allocated to such accounts.

11. HSBC's U.S. headquarters are located in New York, NY. HSBC has been in existence for 150 years. The trust department of HSBC has $15 billion of assets under management, of which $7 billion is held by HSBC as fiduciary of approximately 400 plans that are subject to the Act. HSBC is not in any way related to Dime, Dime Savings or NAMCO.

12. In contrast to the Dime 401(k) Plan and the NAMCO Plan, the investments of the Dime Plan and the ESOP are not participant-directed. The Dime Plan investments are managed either by investment managers selected by Dime's Benefits Committee (the Benefits Committee) or are directed by the Benefits Committee itself. The investment in the Stock is directed by the Benefits Committee. The ESOP, which is required to be invested primarily in Stock, has its investments directed by the Benefits Committee or by the Plan's trustee, HSBC. In this regard, the trust agreement for the ESOP has been amended to clarify that HSBC, as the ESOP's trustee, will have all investment authority with respect to the Warrants.

13. HSBC also has been retained by Dime for the purpose of acting as the independent fiduciary on behalf of the Dime Plan with respect to the Warrants to be received by that Plan. HSBC has the authority to direct the holding, sale or exercise of the Warrants received by both the Dime Plan and the ESOP.

14. HSBC has represented that it is fully aware of its duties and responsibilities as a fiduciary under the Act with respect to the Dime Plan, the Dime 401(k) Plan, and the ESOP. In fulfilling its duties, HSBC reviewed the terms and conditions of the Warrants and the Warrant Distribution and reviewed the most recent financial statements of Dime and other material it considered appropriate to determine the financial condition of Dime and the possible market value of the Warrants. Based on this review, HSBC concluded, as of December 20, 2000, that it was in the best interests of the participants and beneficiaries of the Dime Plan, the ESOP and the Dime 401(k) Plan for such Plans to acquire and retain all Warrants issued to such Plans pursuant to the Warrant Distribution.

15. HSBC has represented that it will continue to monitor the holding of the Warrants by the Dime Plan and the ESOP. In this regard, HSBC represents that it monitored the holding of the Warrants by the Dime 401(k) Plan during the Freeze Period. In exercising its discretion as a fiduciary under the Act, HSBC will on an on-going basis review all relevant financial information related to Dime and all relevant information related to the market value of the Warrants to determine whether those Plans should hold, sell, or, when exercisable, exercise the Warrants.

[7] As noted in footnote 3, Warburg will not receive Warrants.

16. In the event that HSBC is relieved of its obligation to act as the independent fiduciary on behalf of the Dime Plan and the ESOP, Dime and Dime Savings have established a process to replace HSBC as independent fiduciary. Dime and Dime Savings represent that any new independent fiduciary will be an established institution that has substantial experience as a fiduciary of plans that are subject to the Act, and that is not related to, or otherwise controlling of, controlled by or under common control with Dime, Dime Savings or NAMCO. Dime further represents that any new independent fiduciary will be in place at the time HSBC's departure as independent fiduciary so that there will be no period of time without an independent fiduciary acting on behalf of the Dime Plan and the ESOP with respect to the Warrants.

17. The applicants represent that the Plans are all holders of Stock. As a result of Dime's corporate business decision to distribute the Warrants to all of its common stockholders, the Plans received Warrants through no request or action on their part, but solely as a result of their ownership of Stock. Thus, the Plans' acquisition of the warrants was not volitional on the part of any of the Plans or their respective trustees or other fiduciaries.

18. The applicants represent that each Plan's acquisition of the Warrants enables its participants to have the same economic investment opportunities offered to other holders of Stock. With respect to the Dime 401(k) Plan and, to the extent applicable, the NAMCO 401(k) Plan, the sale or exercise direction opportunities will be passed through under each Plan to participants who had account balances invested in the Plan's Stock Fund as of the Record Date, thereby affording them the same rights and privileges as other holders of Stock as well as the same investment rights and privileges they have with respect to other amounts credited to their accounts. With respect to the Dime Plan and the ESOP, the applicants state that participants will be able to reap the potential economic rewards of their Plan's acquisition and ultimate disposition or exercise of the warrants. To deny the Plans' ability to participate in the warrant Distribution would deny participants the opportunity to be treated in the same manner as other holders of Stock. It is noted that, while the Warrants are expected to trade on a national securities market, an exemption is not being requested to permit the Plans to acquire additional Warrants on the market. Thus, the requested exemption relates only to the past distribution of Warrants to the Plans by Dime.

19. In summary, the applicants represent that the transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (a) The Plans' acquisition of the Warrants resulted from an independent act of Dime as a corporate entity, and all holders of Stock, including the Plans, were treated in a like manner with respect to the Warrant Distribution (with the exception of one holder of Stock (i.e., Warburg), who did not receive Warrants); (b) with respect to Warrants allocated to the Dime 401(k) Plan and the NAMCO Plan, the Warrants were acquired solely for the accounts of participants who had directed investment of all or a portion of their account balances in Stock pursuant to plan provisions for individually-directed investment of participant accounts; (c) with respect to Warrants allocated to the Dime Plan and the ESOP, the authority for all decisions regarding the holding, disposition or exercise of the Warrants by such Plans will be exercised by an independent fiduciary (i.e., HSBC or its successor) acting on behalf of such Plans; and (d) with respect to Warrants allocated to the Dime 401(k) Plan and the NAMCO Plan, all decisions regarding the holding, disposition or exercise of the Warrants have been made (other than during the Freeze Period), and will continue to be made, in accordance with Plan provisions for individually-directed investment of participant accounts, by the individual Plan participants whose accounts in the Plan received Warrants in connection with the Warrant Distribution.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.

Barclays Bank PLC and Barclays Capital Inc. Located in London, England and New York, New York

[Application No. D–10966]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures as set forth in 29 C.F.R. Part 2570, Subpart B (55 Fed. Reg. 32836, 32847, August 10, 1990).[8]

[8] For the purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer to the corresponding provisions of the Code.

Section I—Transactions

If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply as of January 24, 2001, to:

(a) The lending of securities, under certain exclusive borrowing arrangements, to:

(1) Barclays Bank PLC (Barclays);

(2) Barclays Capital Inc. (BCI) and any other affiliate of Barclays that, now or in the future, is a U.S. registered broker-dealer or a government securities broker or dealer or U.S. bank;

(3) Barclays Capital Securities Limited, which is subject to regulation in the United Kingdom by the Securities and Futures Authority of the United Kingdom (the UK SFA); and

(4) Any broker-dealer or bank that, now or in the future, is an affiliate of Barclays which is subject to regulation by the UK SFA or the Bank of England, (each such affiliated foreign broker-dealer or bank referred to as a ''Foreign Borrower,'' and, together with Barclays and BCI, collectively referred to as the ''Borrowers''), by employee benefit plans, including commingled investment funds holding assets of such plans (Plans), with respect to which Barclays or any of its affiliates is a party in interest; and

(b) The receipt of compensation by Barclays or any of its affiliates in connection with securities lending transactions, provided that the following conditions set forth in Section II, below, are satisfied.

Section II—Conditions

(a) For each Plan, neither the Borrower nor any affiliate has or exercises discretionary authority or control over the Plan's investment in the securities available for loan, nor do they render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets.

(b) The party in interest dealing with the Plan is a party in interest with respect to the Plan (including a fiduciary) solely by reason of providing services to the Plan, or solely by reason of a relationship to a service provider described in section 3(14)(F), (G), (H) or (I) of the Act.

(c) The Borrower directly negotiates an exclusive borrowing agreement (the Borrowing Agreement) with a Plan fiduciary which is independent of the Borrower and its affiliates.

(d) The terms of each loan of securities by a Plan to a Borrower are at

least as favorable to such Plan as those of a comparable arm's-length transaction between unrelated parties, taking into account the exclusive arrangement.

(e) In exchange for granting the Borrower the exclusive right to borrow certain securities, the Plan receives from the Borrower either (i) a flat fee (which may be equal to a percentage of the value of the total securities subject to the Borrowing Agreement from time to time), (ii) a periodic payment that is equal to a percentage of the value of the total balance of outstanding borrowed securities, or (iii) any combination of (i) and (ii) (collectively, the Exclusive Fee). If the Borrower deposits cash collateral, all the earnings generated by such cash collateral shall be returned to the Borrower; provided that the Borrower may, but shall not be obligated to, agree with the independent fiduciary of the Plan that a percentage of the earnings on the collateral may be retained by the Plan or the Plan may agree to pay the Borrower a rebate fee and retain the remaining earnings on the collateral (the Shared Earnings Compensation). If the Borrower deposits non-cash collateral, all earnings on the non-cash collateral shall be returned to the Borrower; provided that the Borrower may, but shall not be obligated to, agree to pay the Plan a lending fee (the Lending Fee) (the Lending Fee and the Shared Earnings Compensation are collectively referred to as the ''Transaction Lending Fee''). The Transaction Lending Fee, if any, shall be either in addition to the Exclusive Fee or an offset against such Exclusive Fee. The Exclusive Fee and the Transaction Lending Fee may be determined in advance or pursuant to an objective formula, and may be different for different securities or different groups of securities subject to the Borrowing Agreement. Any change in the Exclusive Fee or the Transaction Lending Fee that the Borrower pays to the Plan with respect to any securities loan requires the prior written consent of the independent fiduciary of the Plan, except that consent is presumed where the Exclusive Fee or the Transaction Lending Fee changes pursuant to an objective formula. Where the Exclusive Fee or the Transaction Lending Fee changes pursuant to an objective formula, the independent fiduciary of the Plan must be notified at least 24 hours in advance of such change and such independent Plan fiduciary must not object in writing to such change, prior to the effective time of such change.

(f) The Borrower may, but shall not be required to, agree to maintain a minimum balance of borrowed securities subject to the Borrowing Agreement. Such minimum balance may be a fixed U.S. dollar amount, a flat percentage or other percentage determined pursuant to an objective formula.

(g) By the close of business on or before the day the loaned securities are delivered to the Borrower, the Plan receives from the Borrower (by physical delivery, book entry in a securities depository located in the United States, wire transfer, or similar means) collateral consisting of U.S. currency, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, irrevocable bank letters of credit issued by a U.S. bank other than Barclays or any affiliate thereof, or any combination thereof, or other collateral permitted under Prohibited Transaction Exemption 81–6 (46 FR 7527, Jan. 23, 1981, as amended at 52 FR 18754, May 19, 1987) (PTE 81–6) (as amended or superseded).[9] Such collateral will be deposited and maintained in an account which is separate from the Borrower's accounts and will be maintained with an institution other than the Borrower. For this purpose, the collateral may be held on behalf of the Plan by an affiliate of the Borrower that is the trustee or custodian of the Plan.

(h) The market value (or in the case of a letter of credit, the stated amount) of the collateral initially equals at least 102 percent of the market value of the loaned securities on the close of business on the day preceding the day of the loan and, if the market value of the collateral at any time falls below 100 percent (or such higher percentage as the Borrower and the independent fiduciary of the Plan may agree upon) of the market value of the loaned securities, the Borrower delivers additional collateral on the following day to bring the level of the collateral back to at least 102 percent. The level of the collateral is monitored daily by the Plan or its designee, which may be Barclays or any of its affiliates which provides custodial or directed trustee services in respect of the securities covered by the Borrowing Agreement for the Plan. The applicable Borrowing Agreement shall give the Plan a continuing security interest in and lien on the collateral.

(i) Before entering into a Borrowing Agreement, the Borrower furnishes to the Plan the most recent publicly available audited and unaudited statements of its financial condition, as well as any publicly available information which it believes is necessary for the independent fiduciary to determine whether the Plan should enter into or renew the Borrowing Agreement.

(j) The Borrowing Agreement contains a representation by the Borrower that, as of each time it borrows securities, there has been no material adverse change in its financial condition since the date of the most recently furnished financial statements.

(k) The Plan receives the equivalent of all distributions made during the loan period, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits, and rights to purchase additional securities, that the Plan would have received (net of tax withholdings)[10] had it remained the record owner of the securities.

(l) The Borrowing Agreement and/or any securities loan outstanding may be terminated by either party at any time without penalty (except for, if the Plan has terminated its Borrowing Agreement, the return to the Borrower of a pro-rata portion of the Exclusive Fee paid by the Borrower to the Plan) whereupon the Borrower delivers securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within the lesser of five business days of written notice of termination or the customary settlement period for such securities.

(m) In the event that the Borrower fails to return securities in accordance with the Borrowing Agreement, the Plan will have the right under the Borrowing Agreement to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price. If the collateral is insufficient to satisfy the Borrower's obligation to return the Plan's securities, the Borrower will indemnify the Plan in the U.S. with respect to the difference between the replacement cost of securities and the market value of the collateral on the date the loan is declared in default, together with

[9] PTE 81–6 provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to a U.S. broker-dealer registered under the Securities Exchange Act of 1934 (the 1934 Act) (or exempted from registration under the 1934 Act as a dealer in exempt Government securities, as defined therein) or to a U.S. bank, that is a party in interest with respect to such plan.

[10] The Department notes the Applicants' representation that dividends and other distributions on foreign securities payable to a lending Plan are subject to foreign tax withholdings and that the Borrower will always put the Plan back in at least as good a position as it would have been had it not loaned securities.

expenses incurred by the Plan plus applicable interest at a reasonable rate, including reasonable attorneys' fees incurred by the Plan for legal action arising out of default on the loans, or failure by the Borrower to properly indemnify the Plan.

(n) Except as otherwise provided herein, all procedures regarding the securities lending activities, at a minimum, conform to the applicable provisions of PTE 81–6 (as amended or superseded), as well as to applicable securities laws of the United States and/or the United Kingdom, as appropriate.

(o) Only Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to the Borrowers; provided, however, that—

(1) In the case of two or more Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the Borrowers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the Borrowers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million. (In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

(p) Prior to any Plan's approval of the lending of its securities to the Borrowers, a copy of this exemption, if granted, (and the notice of pendency) is provided to the Plan, and the Borrower informs the independent fiduciary that the Borrower is not acting as a fiduciary of the Plan in connection with its borrowing securities from the Plan.[11]

(q) The independent fiduciary of the Plan receives monthly reports with respect to the securities lending transactions, including but not limited to the information set forth in the following sentence, so that an independent Plan fiduciary may monitor such transactions with the Borrowers. The monthly report will list for a specified period all outstanding or closed securities lending transactions. The report will identify for each open loan position, the securities involved, the value of the security for collateralization purposes, the current value of the collateral, the rebate or premium (if applicable) at which the security is loaned, and the number of days the security has been on loan. At the request of the Plan, such a report will be provided on a daily or weekly basis, rather than a monthly basis. Also, upon request of the Plan, the Borrower will provide the Plan with daily confirmations of securities lending transactions.

(r) In addition to the above conditions, all loans involving Foreign Borrowers must satisfy the following supplemental requirements:

(1) Such Foreign Borrower is a bank which is subject to regulation by the Bank of England or is a registered broker-dealer subject to regulation by the UK SFA;

(2) Such Foreign Borrower is in compliance with all applicable provisions of Rule 15a–6 (17 CFR 240.15a–6) under the Securities Exchange Act of 1934 (the 1934 Act) which provides foreign broker-dealers a limited exception from United States registration requirements;

(3) All collateral is maintained in United States dollars or in U.S. dollar-denominated securities or letters of credit;

(4) All collateral is held in the United States and the situs of the Borrowing Agreement is maintained in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)-1; and

(5) Prior to entering into a transaction involving a Foreign Borrower, Barclays or the Foreign Borrower must:

(i) Agree to submit to the jurisdiction of the United States;

(ii) Agree to appoint an agent for service of process in the United States, which may be an affiliate (the Process Agent);

(iii) Consent to the service of process on the Process Agent; and

(iv) Agree that enforcement by a Plan of the indemnity provided by Barclays or the Foreign Borrower will occur in the United States courts.

(s) Barclays or the Borrower maintains, or causes to be maintained, within the United States for a period of six years from the date of such transaction, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (t)(1) to determine whether the conditions of the exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Barclays and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than the Borrower shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (t)(1).

(t)(1) Except as provided in subparagraph (t)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in

[11] The Department notes the Applicants' representation that, under the proposed exclusive borrowing arrangements, neither the Borrower nor any of its affiliates will perform the essential functions of a securities lending agent, i.e., the Applicants will not be the fiduciary who negotiates the terms of the Borrowing Agreement on behalf of the Plan, the fiduciary who identifies the appropriate borrowers of the securities or the fiduciary who decides to lend securities pursuant to an exclusive arrangement. However, the Applicants or their affiliates may monitor the level of collateral and the value of the loaned securities.

paragraph (s) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (SEC);

(ii) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(iii) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(iv) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described above in subparagraphs (t)(1)(ii)–(t)(1)(iv) are authorized to examine the trade secrets of Barclays or its affiliates or commercial or financial information which is privileged or confidential.

Section III—Definitions

(a) An ''affiliate'' of a person means:

(i) any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person. (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual);

(ii) any officer, director, employee or relative (as defined in section 3(15) of the Act) of any such other person or any partner in any such person; and

(iii) any corporation or partnership of which such person is an officer, director or employee, or in which such person is a partner.

(b) The term ''Foreign Borrower'' or ''Foreign Borrowers'' means Barclays Capital Securities Limited and any broker-dealer or bank that, now or in the future, is an affiliate of Barclays which is subject to regulation by the UK SFA or the Bank of England.

(c) The term ''Borrower'' includes Barclays, BCI, the Foreign Borrowers and any other affiliate of Barclays that, now or in the future, is a U.S. registered broker-dealer or a government securities broker or dealer or U.S. bank.

Effective Date: This proposed exemption, if granted, will be effective as of January 24, 2001.

Summary of Facts and Representations

1. Barclays, a full-line investment service firm, is an authorized institution under the Banking Act of 1987 of the United Kingdom and is regulated by the Bank of England. As of June 30, 2000, Barclays (based on its Consolidated Balance Sheet) had approximately £286,385 million in assets and £9,237 million in stockholder's equity.

Barclays has several affiliates which are broker-dealers or banks. BCI, a subsidiary of Barclays, is incorporated under the laws of the State of Connecticut and is registered with and regulated by the Securities and Exchange Commission (the SEC) as a U.S. broker-dealer under Section 15 of the Securities Exchange Act of 1934, as amended (the 1934 Act). As of November 2000, BCI had approximately $55 billion in assets. The affiliated foreign broker-dealers of Barclays that will be covered by this proposed exemption (i.e., the Foreign Borrowers), and their respective regulating entities, are as follows: (a) Barclays Capital Securities Limited (BCSL) is a foreign broker-dealer affiliate of Barclays located in London, and is subject to regulation by the United Kingdom Securities and Futures Authority (the UK SFA) and (b) any broker-dealer or bank that, now or in the future, is an affiliate of Barclays which is subject to regulation by the UK SFA or the Bank of England. As of June 30, 2000, BCSL had approximately £18,942 million in assets. Barclays, BCI and the Foreign Borrowers are collectively referred to as the Borrowers or the Applicants.

2. The Borrowers, acting as principal, actively engage in the borrowing and lending of securities. The Borrowers utilize borrowed securities either to satisfy their own trading requirements or to re-lend to other broker-dealers and entities which need a particular security for a certain period of time. The Applicants represent that in the United States, as described in the Federal Reserve Board's Regulation T, borrowed securities are often used in short sales, for non-purpose loans to exempted borrowers, or in the event of a failure to receive securities that a broker-dealer is required to deliver.

The Applicants wish to enter into exclusive borrowing arrangements with employee benefit plans, including commingled investment funds holding assets of such plans (Plans), for which Barclays or any affiliate of Barclays may be a party in interest. For example, Barclays or an affiliate of Barclays may be an investment manager for assets of a Plan that are unrelated to the assets involved in the transaction. Barclays or any of its affiliates may provide securities custodial services, directed trustee services, clearing and/or reporting functions in connection with securities lending transactions, or other services to the Plan.

3. Barclays represents that it or any other Foreign Borrower that is a bank is regulated by the Bank of England whose powers include licensing banks in the United Kingdom, issuing directives to address violations by or irregularities involving such banks, requiring information from a bank or its auditor regarding supervisory matters and revoking bank licenses. Barclays also states that the Bank of England ensures that it has procedures for monitoring and controlling its worldwide activities through various statutory and regulatory standards. Among these standards are requirements for adequate internal controls, oversight, administration and financial resources. Barclays further states that it is required to provide the Bank of England on a recurring basis with information regarding capital adequacy, country risk exposure and foreign exchange exposures as well as periodic, consolidated financial reports on the financial condition of Barclays and its affiliates.

4. The Applicants represent that although the Foreign Borrowers that are broker-dealers will not be registered with the SEC, their activities are governed by the rules, regulations and membership requirements of the UK SFA. In this regard, the Applicants state that the Foreign Borrowers are subject to the UK SFA rules relating to, among other things, minimum capitalization, reporting requirements, periodic examinations, client money and safe custody rules, and books and records requirements with respect to client accounts. The Applicants represent that the rules and regulations set forth by the UK SFA and the SEC share a common objective: the protection of the investor by the regulation of the securities industry. The Applicants represent that the UK SFA rules require each firm which employs registered representatives or registered traders to have positive tangible net worth and to be able to meet its obligations as they may fall due, and that the UK SFA rules set forth comprehensive financial resource and reporting/disclosure rules regarding capital adequacy. In addition, to demonstrate capital adequacy, the Applicants state that the UK SFA rules impose reporting/disclosure requirements on broker-dealers with respect to risk management, internal controls, and transaction reporting and recordkeeping requirements. In this regard, required records must be produced at the request of the UK SFA at any time. The Applicants further state that the rules and regulations of the UK SFA for broker-dealers are backed up by

potential fines and penalties as well as a comprehensive disciplinary system.

5. The Applicants represent that in addition to the protections afforded by the Bank of England and the UK SFA, compliance by the Applicants with the requirements of Rule 15a–6 of the 1934 Act (and the amendments and interpretations thereof) will offer further protections to the Plans.[12] SEC Rule 15a–6 provides an exemption from U.S. registration requirements for a foreign broker-dealer that induces or attempts to induce the purchase or sale of any security (including over-the-counter equity and debt options) by a ''U.S. institutional investor'' or a ''major U.S. institutional investor,'' provided that the foreign broker-dealer, among other things, enters into these transactions through a U.S. registered broker-dealer intermediary. The term ''U.S. institutional investor,'' as defined in Rule 15a–6(b)(7), includes an employee benefit plan within the meaning of the Act if (a) the investment decision is made by a plan fiduciary, as defined in section 3(21) of the Act, which is either a bank, savings and loan association, insurance company or registered investment advisor, or (b) the employee benefit plan has total assets in excess of $5 million, or (c) the employee benefit plan is a self-directed plan with investment decisions made solely by persons that are ''accredited investors'' as defined in Rule 501(a)(1) of Regulation D of the Securities Act of 1933, as amended. The term ''major U.S. institutional investor'' is defined as a person that is a U.S. institutional investor that has, or has under management, total assets in excess of $100 million or an investment adviser registered under section 203 of the Investment Advisers Act of 1940 that has total assets under management in excess of $100 million.[13] The Applicants represent that the intermediation of the U.S. registered broker-dealer imposes upon the foreign broker-dealer the requirement that the securities transaction be effected in accordance with a number of U.S. securities laws and regulations applicable to U.S. registered broker-dealers.

The Applicants represent that under SEC Rule 15a–6, a foreign broker-dealer that induces or attempts to induce the purchase or sale of any security by a U.S. institutional or major U.S. institutional investor in accordance with Rule 15a–6 [14] must, among other things:

(a) Consent to service of process for any civil action brought by, or proceeding before, the SEC or any self-regulatory organization;

(b) Provide the SEC with any information or documents within its possession, custody or control, any testimony of any such foreign associated persons, and any assistance in taking the evidence of other persons, wherever located, that the SEC requests and that relates to the transactions effected pursuant to the Rule;

(c) Rely on the U.S. registered broker-dealer through which the transactions with the U.S. institutional and major U.S. institutional investors are effected to (among other things):

(1) Effect the transactions, other than negotiating the terms;

(2) Issue all required confirmations and statements;

(3) As between the foreign broker-dealer and the U.S. registered broker-dealer, extend or arrange for the extension of credit in connection with the transactions;

(4) Maintain required books and records relating to the transactions, including those required by SEC Rules 17a-3 (Records to be Made by Certain Exchange Members) and 17a-4 (Records to be Preserved by Certain Exchange Members, Brokers and Dealers) of the 1934 Act;

(5) Receive, deliver, and safeguard funds and securities in connection with the transactions on behalf of the U.S. institutional investor or major U.S. institutional investor in compliance with Rule 15c3–3 of the 1934 Act (Customer Protection—Reserves and Custody of Securities)[15] and

(6) Participate in certain oral communications (e.g., telephone calls) between the foreign associated person and the U.S. institutional investor (not the major U.S. institutional investor), and accompany the foreign associated person on certain visits with both U.S. institutional and major U.S. institutional investors. The Applicants represent that, under certain circumstances, the foreign associated person may have direct communications and contact with the U.S. Institutional Investor.[16] (See April 9, 1997 No-Action Letter.)

6. An institutional investor, such as a pension fund, lends securities in its portfolio to a broker-dealer or bank in order to earn a fee while continuing to enjoy the benefits of owning the securities (e.g., from the receipt of any interest, dividends, or other distributions due on those securities and from any appreciation in the value of the securities). The lender generally requires that the securities loan be fully collateralized, and the collateral usually is in the form of cash or high quality liquid securities, such as U.S. Government or Federal Agency obligations or irrevocable bank letters of credit. If the borrower deposits cash collateral, the lender invests the collateral, and the borrowing agreement may provide that the lender pay the borrower a previously-agreed upon amount or rebate fee and keep the earnings on the collateral. If the borrower deposits government securities, the borrower is entitled to the earnings on its deposited securities and may pay the lender a lending fee. If the borrower deposits irrevocable bank letters of credit as collateral, the borrower pays the lender a fee as compensation for the loan of its securities. These fees, defined below as the Transaction Lending Fee, may be determined in advance or pursuant to an objective formula, and may be different for different securities or

[12] According to the Applicants, section 3(a)(4) of the 1934 Act defines ''broker'' to mean ''any person engaged in the business of effecting transactions in securities for the account of others, but it does not include a bank.'' Section 3(a)(5) of the 1934 Act provides a similar exclusion for ''banks'' in the definition of the term ''dealer.'' However, section 3(3)(6) of the 1934 Act defines ''bank'' to mean a banking institution organized under the laws of the United States or a State of the United States. Further, Rule 15a–6(b)(3) provides that the term ''foreign broker-dealer'' means ''any non-U.S. resident person * * * whose securities activities, if conducted in the United States, would be described by the definition of 'broker' or 'dealer' in sections 3(a)(4) or 3(a)(5) of the [1934] Act.'' Therefore, the test of whether an entity is a ''foreign broker'' or ''dealer'' is based on the nature of such foreign entity's activities and, with certain exceptions, only banks that are regulated by either the United States or a State of the United States are excluded from the definition of the term ''broker'' or ''dealer.'' Thus, for purposes of this exemption request, the Applicants are willing to represent that they will comply with the applicable provisions and relevant SEC interpretations and amendments of Rule 15a–6.

[13] Note that the categories of entities that qualify as ''major U.S. institutional investors'' has been expanded by a No-Action letter issued by the SEC. See SEC No-Action Letter issued to Cleary, Gottlieb, Steen & Hamilton on April 9, 1997 (April 9, 1997 No-Action Letter).

[14] If it is determined that applicable regulation under the 1934 Act does not require Barclays or the borrower to comply with SEC Rule 15a–6, both entities will nevertheless comply with subparagraphs (a) and (b) of Representation 5 above.

[15] Under certain circumstances described in the April 9, 1997 No-Action Letter (e.g., clearance and settlement transactions), there may be direct transfers of funds and securities between a Plan and Barclays or between a Plan and the Foreign Borrower. The Applicants note that in such situations, the U.S. registered broker-dealer will not be acting as principal with respect to any duties it is required to undertake pursuant to Rule 15a–6.

[16] The term ''foreign associated person'' as defined in Rule 15a–6(b)(2) means any natural person domiciled outside the United States who is an associated person, as defined in section 3(a)(18) of the 1934 Act, of the foreign broker or dealer, and who participates in the solicitation of a U.S. institutional investor or a major U.S. institutional investor under Rule 15a–6(a)(3)

different groups of securities subject to the Borrowing Agreement.

7. The Borrowers request an exemption for the lending of securities, under certain exclusive borrowing arrangements, by Plans with respect to which Barclays or any of its affiliates is a party in interest (including a fiduciary) solely by reason of providing services to the Plan, or solely by reason of a relationship to a service provider described in section 3(14)(F), (G), (H) or (I) of the Act. For each Plan, neither the Borrowers nor any of its affiliates will have discretionary authority or control over the Plan's investment in the securities available for loan, nor will they render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets. The Applicants represent that because the Borrowers, by exercising their contractual rights under the proposed exclusive borrowing arrangements, will have discretion with respect to whether there is a loan of particular Plan securities to the Borrowers, the lending of securities to the Borrowers may be outside the scope of relief provided by PTE 81–6.[17]

8. For each Plan, the Borrowers will directly negotiate a Borrowing Agreement with a Plan fiduciary which is independent of the Borrowers. Under the Borrowing Agreement, the Borrowers will have exclusive access for a specified period of time to borrow certain securities of the Plan pursuant to certain conditions. The Borrowing Agreement will specify all material terms of the agreement, including the basis for compensation to the Plan under each category of securities available for loan. The Borrowing Agreement will also contain a requirement that the Borrowers pay all transfer fees and transfer taxes relating to the securities loans. The terms of each loan of securities by a Plan to a Borrower will be at least as favorable to such Plan as those of a comparable arm's-length transaction between unrelated parties, taking into account the exclusive arrangement.

9. The Borrowers may, but shall not be required to, agree to maintain a minimum balance of borrowed securities subject to the Borrowing Agreement. Such minimum balance may be a fixed U.S. dollar amount, a flat percentage or other percentage determined pursuant to an objective formula.

10. In exchange for granting the Borrower the exclusive right to borrow certain securities, the Borrower will pay the Plan either (i) a flat fee (which may be equal to a percentage of the value of the total securities subject to the Borrowing Agreement), (ii) a periodic payment that is equal to a percentage of the value of the total balance outstanding borrowed securities, or (iii) any combination of (i) and (ii) (i.e., the Exclusive Fee).

If the Borrower deposits cash collateral, all the earnings generated by such cash collateral shall be returned to the Borrower; provided that the Borrower may, but shall not be obligated to, agree with the independent fiduciary of the Plan that a percentage of the earnings on the collateral may be retained by the Plan or the Plan may agree to pay the Borrower a rebate fee and retain the remaining earnings on the collateral (the Shared Earnings Compensation). If the Borrower deposits non-cash collateral, all earnings on the non-cash collateral shall be returned to the Borrower; provided that the Borrower may, but shall not be obligated to, agree to pay the Plan a lending fee. The Lending Fee, together with the Shared Earnings Compensation, is referred to as the Transaction Lending Fee.

The Transaction Lending Fee, if any, may be in addition to the Exclusive Fee or an offset against such Exclusive Fee. The Exclusive Fee and the Transaction Lending Fee may be determined in advance or pursuant to an objective formula, and may be different for different securities or different groups of securities subject to the Borrowing Agreement. For example, in addition to the Borrower paying different fees to different Plans, the Borrower may pay different fees for different portfolios of securities (i.e., the fee for a domestic securities portfolio may be different than the fee for a foreign securities portfolio). The Borrower may also pay different fees for securities of issuers in different foreign countries; for example, there may be a different fee for German securities than for French securities. In addition, with respect to, for example, the French securities, there may be different fees for liquid securities than for illiquid securities.

Any change in the Exclusive Fee or the Transaction Lending Fee that the Borrower pays to the Plan with respect to any securities loan requires the prior written consent of the independent fiduciary of the Plan, except that consent is presumed where the Exclusive Fee or the Transaction Lending Fee changes pursuant to an objective formula. Where the Exclusive Fee or the Transaction Lending Fee changes pursuant to an objective formula, the independent fiduciary of the Plan must be notified at least 24 hours in advance of such change and such independent Plan fiduciary must not object in writing to such change, prior to the effective time of such change.

The Plan will be entitled to the equivalent of all distributions made to holders of the borrowed securities during the loan period, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits, and rights to purchase additional securities that the Plan would have received (net of tax withholdings in the case of foreign securities), had it remained the record owner of the securities.

11. By the close of business on or before the day the loaned securities are delivered to the Borrower, the Plan will receive from the Borrower (by physical delivery, book entry in a securities depository located in the United States, wire transfer, or similar means) collateral consisting of U.S. currency, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, irrevocable bank letters of credit issued by U.S. banks other than Barclays or its affiliates, or other collateral permitted under PTE 81–6 (as amended or superseded). Such collateral will be deposited and maintained in an account on behalf of a Plan which is separate from the Borrower's accounts and will be maintained with an institution other than the Borrower. For this purpose, the collateral may be held on behalf of the Plan by an affiliate of the Borrower that is the trustee or custodian of the Plan. The market value (or in the case of a letter of credit, a stated amount) of the collateral on the close of business on the day preceding the day of the loan will be at least 102 percent of the market value of the loaned securities. The Plan, its independent fiduciary or its designee, which may be Barclays or any of its affiliates which provides custodial or directed trustee services in respect of the securities covered by the Borrowing Agreement for the Plan, will monitor the level of the collateral daily and, if the market value of the collateral on the close of a business day falls below 100 percent (or such higher percentage as the Borrower and the independent fiduciary of the Plan may agree upon) of the market value of the loaned securities at the close of business on such day, the Borrower will deliver additional collateral by the close of business on the following day to bring the level of the collateral back to at least 102 percent.

[17] PTE 81–6 requires in part that neither the borrower nor an affiliate of the borrower may have discretionary authority or control over the investment of the plan assets involved in the transaction.

The applicable Borrowing Agreement will give the Plan a continuing security interest in and lien on the collateral.

If the Borrower deposits cash collateral, the Plan invests the collateral, and all earnings on such cash collateral shall be returned to the Borrower; provided that the Borrowing Agreement may provide that the Plan receive Shared Earnings Compensation, which, as discussed above, may be a percentage of the earnings on the collateral which may be retained by the Plan or the Plan may agree to pay the Borrower a rebate fee and retain the remaining earnings on the collateral. The terms of the rebate fee for each loan will be at least as favorable to the Plan as those of comparable arm's length transactions between unrelated parties taking into account the exclusive arrangement, and will be based upon an objective methodology which takes into account several factors, including potential demand for the loaned securities, the applicable benchmark cost of fund indices (typically, the U.S. Federal Funds rate established by the U.S. Federal Reserve System (the Federal Funds), the overnight REPO [18] rate, or the like) and anticipated investment return on overnight investments permitted by the independent fiduciary of the Plan. If the Borrower deposits non-cash collateral, such as government securities or irrevocable bank letters of credit, the Borrower shall be entitled to the earnings on its non-cash collateral; provided that the Borrower may, but shall not be obligated to, agree to pay the Plan a Lending Fee. The Exclusive Fee and the Transaction Lending Fee may be determined in advance or pursuant to an objective formula, and may be different for different securities or different groups of securities subject to the Borrowing Agreement.

The Borrower will provide a monthly report to the independent fiduciary of the Plan which includes the following information. The monthly report will list for a specified period all outstanding or closed securities lending transactions. The report will identify for each open loan position, the securities involved, the value of the security for collateralization purposes, the current value of the collateral, the rebate or premium (if applicable) at which the security is loaned, and the number of days the security has been on loan. At the request of the Plan, such a report will be provided on a daily or weekly basis, rather than a monthly basis. Also, upon request of the Plan, the Borrower will provide the Plan with daily confirmations of securities lending transactions.

12. Before entering into a Borrowing Agreement, the Borrower will furnish to the Plan the most recent publicly available audited and unaudited statements of its financial condition, as well as any publicly available information which it believes is necessary for the independent fiduciary to determine whether the Plan should enter into or renew the Borrowing Agreement. Further, the Borrowing Agreement will contain a representation by the Borrower that as of each time it borrows securities, there has been no material adverse change in its financial condition since the date of the most recently furnished financial statements.

13. Prior to any Plan's approval of the lending of its securities to the Borrowers, a copy of this exemption, if granted, (and the notice of pendency) is provided to the Plan, and the Borrower informs the independent fiduciary that the Borrower is not acting as a fiduciary of the Plan in connection with its borrowing securities from the Plan.

14. With regard to those Plans for which Barclays or any of its affiliates provides custodial, directed trustee, clearing and/or reporting functions relative to securities loans, Barclays and a Plan fiduciary independent of Barclays and its affiliates will agree in advance and in writing to any fee that Barclays or any of its affiliates is to receive for such custodial, directed trustee, clearing and/or reporting services. Such fees, if any, would be fixed fees (e.g., Barclays or any of its affiliates might negotiate to receive a fixed percentage of the value of the assets with respect to which it performs these services, or to receive a stated dollar amount) and any such fee would be in addition to any fee Barclays or any of its affiliates has negotiated to receive from any such Plan for standard custodial or other services unrelated to the securities lending activity. The arrangement for Barclays or any of its affiliates to provide such functions relative to securities loans to the Borrowers will be terminable by the Plan within five (5) business days of the receipt of written notice without penalty to the Plan, except for the return to the Borrowers of a pro-rata portion of the Exclusive Fee paid by the Borrowers to the Plan, if the Plan has also terminated its exclusive borrowing arrangement with the Borrowers.

15. The Borrowing Agreement and/or any securities loan outstanding may be terminated by either party at any time without penalty. Upon termination of any securities loan, the Borrower will deliver securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within the lesser of five business days of written notice of termination or the customary settlement period for such securities.

16. In the event that the Borrower fails to return securities in accordance with the Borrowing Agreement, the Plan will have the right under the Borrowing Agreement to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price. If the collateral is insufficient to satisfy the Borrower's obligation to return the Plan's securities, the Borrower will indemnify the Plan in the U.S. with respect to the difference between the replacement cost of securities and the market value of the collateral on the date the loan is declared in default, together with expenses incurred by the Plan plus applicable interest at a reasonable rate, including reasonable attorneys' fees incurred by the Plan for legal action arising out of default on the loans, or failure by the Borrower to properly indemnify the Plan.

17. Except as provided herein, all the procedures under the Borrowing Agreement will, at a minimum, conform to the applicable provisions of PTE 81–6 (as amended or superseded), as well as to applicable securities laws of the U.S. and/or the U.K., as appropriate. In addition, in order to ensure that the independent fiduciary representing a Plan has the experience, sophistication, and resources necessary to adequately review the Borrowing Agreement and the fee arrangements thereunder, only Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to the Borrowers; provided, however, that—

(a) In the case of two or more Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the Borrowers, the foregoing $50 million requirement shall be deemed satisfied if such trust or

[18] An overnight REPO is an overnight repurchase agreement that is an arrangement whereby securities dealers and banks finance their inventories of Treasury bills, notes and bonds. The dealer or bank sells securities to an investor with a temporary surplus of cash, agreeing to buy them back the next day. Such transactions are settled in immediately available Federal Funds, usually at a rate below the Federal Funds rate (the rate charged by the banks lending funds to each other).

other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(b) In the case of two or more Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the Borrowers, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million. (In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

The Applicants represent that the opportunity for the Plans to enter into exclusive borrowing arrangements with the Borrowers under the flexible fee structures described herein is in the interests of the Plans because the Plans will then be able to choose among an expanded number of competing exclusive borrowers, as well as maximizing the volume of securities lent and the return on such securities.

18. In addition to the above conditions, all loans involving Foreign Borrowers must satisfy the following supplemental requirements:

(i) Such Foreign Borrower is a bank which is subject to regulation by the Bank of England or is a registered broker-dealer subject to regulation by the UK SFA;

(ii) Such Foreign Borrower is in compliance with all applicable provisions of Rule 15a–6 (17 C.F.R. 240.15a–6) under the 1934 Act which provides foreign broker-dealers a limited exception from United States registration requirements;

(iii) All collateral is maintained in United States dollars or in U.S. dollar-denominated securities or letters of credit;

(iv) All collateral is held in the United States and the situs of the Borrowing Agreement is maintained in the United States under an arrangement that complies with the indicia of ownership requirements under Section 404(b) of the Act and the regulations promulgated under 29 C.F.R. 2550.404(b)–1; and

(v) Prior to entering into a transaction involving a Foreign Borrower, Barclays or the Foreign Borrower must:

(1) Agree to submit to the jurisdiction of the United States;

(2) Agree to appoint an agent for service of process in the United States, which may be an affiliate (the Process Agent);

(3) Consent to the service of process on the Process Agent; and

(4) Agree that enforcement by a Plan of the indemnity provided by Barclays or the Foreign Borrower will occur in the United States courts.

19. In addition to the protections cited above, Barclays or the Borrower will maintain, or cause to be maintained, within the United States for a period of six years from the date of a transaction, such records as are necessary to enable the Department and other persons (as specified herein in Section II(t)(1)) to determine whether the conditions of the exemption have been met.

20. In summary, the Applicants represent that the described transactions satisfy the statutory criteria of section 408(a) of the Act because:

(a) The Borrower will directly negotiate a Borrowing Agreement with an independent fiduciary of each Plan;

(b) The Plans will be permitted to lend to the Borrower, a major securities borrower who will be added to an expanded list of competing exclusive borrowers, enabling the Plans to earn additional income from the loaned securities on a secured basis, while continuing to enjoy the benefits of owning the securities;

(c) In exchange for granting the Borrower the exclusive right to borrow certain securities, the Borrower will pay the Plan the Exclusive Fee, which as discussed above may be either (i) a flat fee (which may be a percentage of the value of the total securities subject to the Borrowing Agreement), (ii) a percentage of the value of the total balance of outstanding borrowed securities, or (iii) any combination of (i) and (ii);

(d) Any change in the Exclusive Fee or Shared Earnings Compensation that the Borrower pays to the Plan with respect to any securities loan will require the prior written consent of the independent fiduciary, except that consent will be presumed where the Exclusive Fee or Shared Earnings Compensation changes pursuant to an objective formula specified in the Borrowing Agreement and the independent fiduciary is notified at least 24 hours in advance of such change and does not object in writing thereto, prior to the effective time of such change;

(e) The Borrower will provide sufficient information concerning its financial condition to a Plan before a Plan lends any securities to the Borrower;

(f) The collateral posted with respect to each loan of securities to the Borrower initially will be at least 102 percent of the market value of the loaned securities and will be monitored daily by the independent fiduciary;

(g) The Borrowing Agreement and/or any securities loan outstanding may be terminated by either party at any time without penalty, except for the return to the Borrower of a pro-rata portion of the Exclusive Fee paid by the Borrower to the Plan, and whereupon the Borrower will return any borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within the lesser of five business days of written notice of termination or the customary settlement period for such securities;

(h) Neither the Borrower nor any of its affiliates will have discretionary authority or control over the Plan's investment in the securities available for loan;

(i) The minimum Plan size requirement (as specified in Section II(o) above) will ensure that the Plans will have the resources necessary to adequately review and negotiate all aspects of the exclusive borrowing arrangements; and

(j) All the procedures will, at a minimum, conform to the applicable provisions of PTE 81–6 (as amended or superseded), as well as applicable securities laws of the United States and/or the United Kingdom, as appropriate.

FOR FURTHER INFORMATION CONTACT: Karen Lloyd of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Gooch Enterprises, Inc. Money Purchase Pension Plan (the Plan) Located in Thomasville, North Carolina

[Application No. D–10969]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale of two tracts of land (the Property) by the Plan to Harold L. Gooch, Jr. and Susan M. Gooch (collectively; the Gooches), who are shareholders of the Plan sponsor, the trustees of the Plan and, therefore, parties in interest with respect to the Plan; provided that the following conditions are satisfied:

(a) the proposed sale is a one-time cash transaction;

(b) the Plan receives the current fair market value for the Property, as established by an independent qualified appraiser at the time of the sale; and

(c) the Plan pays no commissions or other expenses associated with the sale.

Summary of Facts and Representations

1. The Plan was established on February 1, 1983, and is a defined contribution plan. As of February, 2001, the Plan had 15 participants and beneficiaries. As of December 31, 1999, the Plan had $1,198,714 in total assets. Gooch Enterprises Inc. (the Company) is the sponsor of the Plan. The Plan's trustees are Harold L. Gooch, Jr. and Susan M. Gooch (i.e., the Gooches). The Company was incorporated on November 24, 1982, and is a subchapter ''C'' North Carolina corporation which is in the business of coordinating trade shows.

2. In 1984, the Plan purchased the Property from Austin T. and Leena Batten, who were unrelated third parties, for the amount of $25,000, of which $22,500 was financed by a loan, as evidenced by a note and deed of trust, from North Carolina National Bank (now Bank of America). The applicant represents that the note on the Property was paid and cancelled as of November 1, 1988. It is represented that the Gooches, as the Plan's trustees, made the decision to purchase the Property as a investment for the Plan. The Gooches believed that the Property would be a good investment for the Plan and would appreciate in value. At the time of purchase, the Property represented approximately 30% of the Plan's total assets. However, the applicant states that as of the end of 1999, the Property represented approximately 6.4% of the total value of the Plan's assets.

3. The applicant represents that the Property has not been used or leased by anyone, including the parties in interest to the Plan described herein. Since it was originally acquired by the Plan in 1984, the Property has not been an income-producing asset. The Property is undeveloped land that is adjacent to property owned by the Gooches.[19] The applicant represents that the Plan paid no expenses or taxes during the period of time the Property has been a Plan asset. All real estate and related taxes and assessments were paid by the Gooches personally.

4. The Property, which consists of Lots 2 and 3, is located on Curtis Court in Thomasville, North Carolina. The Property is part of a semi-developed residential area. The Property was appraised on March 14, 2001 (the Appraisal). The Appraisal was prepared by Gerry C. Crowder, SRA (Mr. Crowder), who is an independent qualified appraiser. Mr. Crowder is with Hylton-Crowder & Associates, Inc., located at 132 East Parris Avenue, P.O. Box 5174, in High Point, North Carolina. After inspecting the Property and using a direct sales comparison analysis of recent sales of similar properties (i.e., undeveloped land), Mr. Crowder determined that the aggregate fair market value of the Property was $77,000 (i.e., $38,500 for each Lot) as of March 7, 2001. Because the Property is adjacent to property owned by the Gooches, Mr. Crowder also considered whether the adjacency factor merits a premium above fair market value for any sale of the Property to the Gooches. However, Mr. Crowder determined that no adjustments are necessary because of the adjacency issue.

The applicant represents that the Appraisal will be updated at the time of the proposed transaction (the Update), in order to ensure that the Plan receives no less than the current fair market value of the Property on the date of the sale. The Update will take into consideration any recent sales of similar properties in the local real estate area which may affect the Appraisal's conclusion regarding the fair market value of the Property.

5. The applicant proposes that the Gooches purchase the Property from the Plan in a one-time cash transaction. The applicant represents that the proposed transaction would be in the best interest and protective of the Plan because, among other things, the Plan will pay no expenses or commissions associated with the sale. The Gooches will pay the Plan an amount equal to the current fair market value of the Property, as established by an independent, qualified appraiser. The sale of the Property to the Gooches will enable the Plan to sell an illiquid, non-income producing asset and reinvest the sale proceeds in other assets that may yield greater returns. Thus, the sale will enhance the liquidity of the Plan's investment portfolio and allow the trustees to further diversify the Plan's assets.

6. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The proposed sale will be a one-time cash transaction;

(b) The Plan will receive the current fair market value for each Property, as established by an independent qualified appraiser at the time of the sale;

(c) The Plan will pay no commissions or other expenses associated with the sale; and

(d) The sale will enable the Plan to sell an illiquid, non-income producing asset and reinvest the sale proceeds in other assets that may yield greater returns.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with

[19] The Department is not providing any opinion in this proposed exemption as to whether the acquisition and holding of the Property by the Plan violated any of the provisions of Part 4 of Title I of the Act.

section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 25th day of June, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 01–16235 Filed 6–27–01; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL COUNCIL ON DISABILITY

International Watch Advisory Committee; Notice of Meeting

AGENCY: National Council on Disability (NCD).

Type: Advisory Committee Meetings/ Conference Calls.

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/ conference call for NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (P.L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Work Group: Inclusion of People with Disabilities in Foreign Assistance Programs.

DATE AND TIME: July 19, 2001, 12 p.m.–1 p.m. EDT.

For International Watch Information, Contact: Kathleen A. Blank, Attorney/ Program Specialist, NCD, 1331 F Street NW, Suite 1050, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), kblank@ncd.gov (e-mail).

Agency Mission: NCD is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meeting/Conference Call: This advisory committee meeting/conference call of NCD will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference call at the NCD office. Those interested in joining this conference call should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/ conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC, on June 25, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–16284 Filed 6–27–01; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting/ Conference Call

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/ conference call for NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Date and Time: September 20, 2001, 12 p.m.–1 p.m. EDT.

For International Watch Information Contact: Kathleen A. Blank, Attorney/ Program Specialist, NCD, 1331 F Street NW, Suite 1050, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), kblank@ncd.gov (e-mail).

Agency Mission: NCD is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meeting/Conference Call: This NCD advisory committee meeting/ conference call will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference call at the NCD office, which is located at 1331 F Street, NW, Suite 1050, Washington, DC. Those interested in joining this conference call should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/ conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC, on June 25, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–16285 Filed 6–27–01; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Proposed Collection; Comment Request

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) is soliciting public comments on the proposed information collection described below. The proposed information collection will be sent to the Office of Management and Budget (OMB) for review, as required by the provisions of the Paperwork Reduction Act of 1995.

DATES: Comments on this information collection must be submitted on or before August 27, 2001.

ADDRESSES: Send comments to Ms. Susan Daisey, Deputy Director, Office of Grant Management, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 311, Washington, DC 20506, or by email to: *sdaisey@neh.gov.* Telephone: 202–606–8494.

SUPPLEMENTARY INFORMATION: The National Endowment for the Humanities will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). This notice is soliciting comments from members of the public and affected agencies. NEH is particularly interested in comments which help the agency to: (1) 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; (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 submissions of responses.

This Notice also lists the following information:

Type of Review: New Collection.

Agency: National Endowment for the Humanities.

Title of Proposal: General Clearance Authority to Develop Evaluation Instruments for the National Endowment for the Humanities.

OMB Number: N/A.

Affected Public: NEH grantees.

Total Respondents: 3,672.

Frequency of Collection: On occasion.

Total Responses: 3,672.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 1,836 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

John W. Roberts,

Deputy Chairman.

[FR Doc. 01–16211 Filed 6–27–01; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

June 22, 2001.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, DC on July 12–13, 2001.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on July 12–13, 2001, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial of financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on July 12, 2001 will be as follows:

Committee Meeting

(Open to the Public)—Policy Discussion

9:00–10:30 a.m.

Education Programs—Room M–07
Federal/State Partnership—Room 507
Preservation and Access/Challenge Grants—Room 415
Public Programs—Room 426
Research Programs—Room 315
(Closed to the Public)—Discussion of specific grant applications and programs before the Council

10:30 a.m. until Adjourned

Education Programs—Room M–07
Federal/State Partnership—Room 507
Preservation and Access/Challenge Grants—Room 415
Public Programs—Room 426
Research Programs—Room 315

1:30–3:00 p.m.

National Humanities Medal/Jefferson Lecture Committee Meeting—Room 507

The morning session on July 13, 2001 will convene at 9 a.m., in the 1st Floor Council Room, M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting
Reports

A. Introductory Remarks and Presentation
B. Staff Report
C. Congressional Report
D. Reports on Policy and General Matters
1. Overview
2. Research Programs
3. Education Programs
3. Preservation and Access/Challenge Grants
4. Public Programs
5. Federal/State Partnership
6. National Humanities Medal/Jefferson Lecture

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Ms. Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Laura S. Nelson,

Advisory Committee Management Officer.

[FR Doc. 01–16212 Filed 6–27–01; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; Comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 66 FR 2456, and no comment were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to splimpto@nsf.gov. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title: National Science Foundation Grant Proposal Guide.

OMB Control Number: 3145–0058.

Summary of Collection: The mission of the National Science Foundation is to serve as a catalyst for progress through investment in science, mathematics and engineering. The agency is guided by its longstanding commitment to the highest standards of excellence in the support of discovery and learning. NSF pledges to provide the leadership and stewardship necessary to sustain and strengthen the Nation's science, mathematics, and engineering capabilities and to promote the use of those capabilities in service to society. NSF's continuing mission is set out in the preamble to the National Science Foundation Act of 1950 (Pub. L. 507):

> To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes.

The information collected is used to help the Foundation fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. NSF receives more than 30,000 proposals annually for new or renewal support for research in math/science/engineering education projects and makes approximately 10,000 new awards. The Foundation exercises its authority primarily by making merit-based grants and cooperative agreements and providing other forms of assistance to individual researchers and groups, in partnership with over 2800 colleges, universities and other institutions—public and private, state, local and federal—throughout the U.S. The awards are based mainly on evaluations of proposal merit submitted to the Foundation (see OMB Clearance No. 3145–0060).

The Foundation has a continuing commitment to monitor the operations of its review and award processes to identify and address excessive reporting burdens. The Foundation also is committed to monitor and identify any real or apparent inequities based on gender, race, ethnicity, or handicap of the proposed principal investigator(s)/project director(s) or co-principal investigator(s)/co-project director(s). The collection of this information is a part of the regular submission of proposal to the Foundation. This information also is protected by the Privacy Act.

Description of Respondents: Nonprofit institutions; state, local or tribal governments; and business or other for-profit.

Number of Respondents: 30,000.

Frequency of Responses: Annually.

Total Burden Hours: The Foundation estimates that an average of 120 hours is expended for each proposal submitted. If an estimated 30,000 proposals are expected during the course of one year, these figures compute to an estimated 3,600,000 public burden hours annually.

Dated: June 25, 2001.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 01–16260 Filed 6–27–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–51, issued to Entergy Operations, Inc., (the licensee), for operation of Arkansas Nuclear One, Unit 1 (ANO–1) located in Pope County, Arkansas.

The proposed amendment, requested by the licensee in a letter dated January 28, 2000, as supplemented by letters dated August 9 and September 28, 2000, and February 6, March 19, and May 1, 2001, would represent a full conversion from the current Technical Specifications (CTS) to a set of improved Technical Specifications (ITS) based on NUREG–1430, ''Standard Technical Specifications, Babcock and Wilcox Plants.'' NUREG–1430 has been developed by the Commission's staff through working groups composed of both NRC staff members and industry representatives, and has been endorsed

by the staff as part of an industry-wide initiative to standardize and improve the Technical Specifications (TS) for nuclear power plants. As part of this submittal, the licensee has applied the criteria contained in 10 CFR 50.36, ''Technical specifications,'' to the CTS, and, using NUREG–1430 as a basis, proposed an ITS for ANO–1.

The licensee has categorized the proposed changes to the CTS into four general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes, and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation, and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering, and rewording process reflects the attributes of NUREG–1430 and does not involve technical changes to the existing TS. The proposed changes include: (a) Providing the appropriate numbers, etc., for NUREG–1430 bracketed information (information that must be supplied on a plant-specific basis, and which may change from plant to plant); (b) identifying plant-specific wording for system names, etc.; and (c) changing NUREG–1430 section wording to conform to existing licensee practices. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in TS. Relocated changes are those current TS requirements that do not satisfy or fall within any of the four criteria specified in the Commission's policy statement and may be relocated to appropriate licensee-controlled documents. The requirements and surveillances for these affected structures, systems, components, or variables will be relocated from the TS to administratively controlled documents such as the quality assurance program, the Final Safety Analysis Report, the ITS BASES, the Technical Requirements Manual, the Core Operating Limits Report (COLR), the Offsite Dose Calculation Manual, the Inservice Testing Program, or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms and may, within the prescribed limits, be made without prior NRC review and approval. In addition, the affected structures, systems, components, or variables are addressed in existing surveillance procedures that are also subject to 10 CFR 50.59. These proposed changes to the TS will not, in and of themselves, impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operations that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, or components described in the safety analyses. For each requirement in the CTS that is more restrictive than the corresponding requirement in NUREG–1430 that the licensee proposes to retain in the ITS, they have provided an explanation of why they have concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facility because of specific design features of the plant.

Less restrictive changes are those where CTS requirements are relaxed or eliminated, or new plant operational flexibility is provided. The more significant ''less restrictive'' requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TS may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the Owners Groups' comments on the Improved Standard Technical Specifications. Generic relaxations contained in NUREG–1430 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG–1430, thus providing a basis for these revised TS, or if relaxation of the requirements in the current TS is warranted based on the justification provided by the licensee.

These administrative, relocated, more restrictive, and less restrictive changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event.

In addition to the proposed changes solely involving the conversion, there are also changes proposed that are differences to the requirements in both the CTS and the Improved Standard Technical Specifications (NUREG–1430). These proposed beyond-scope issues to the ITS conversion are as follows:

1. ITS Limiting Condition for Operation (LCO) 3.2.3, ''Axial Power Imbalance Operating Limits''—Completion time for power reduction if axial power imbalance not restored to within limits changed to 4 hours from value in NUREG–1430 (2 hours).

2. ITS LCO 3.2.4, ''Quadrant Power Tilt (QPT)''—Revised the completion time for several actions for circumstances where QPT exceeds limits specified in the COLR.

3. ITS LCO 3.4.8, ''RCS [Reactor Coolant System] Loops, MODE 5, Loops Not Filled''—Added a required action to suspend operations involving reduction in RCS water volume if required decay heat removal (DHR) loops were not operable or required DHR loop not in operation.

4. ITS LCO 3.4.11, ''Low Temperature Overpressure Protection (LTOP) System''—Adopted some of the NUREG–1430 required actions and surveillance requirements which are more restrictive than CTS but did not adopt all NUREG–1430 requirements.

5. ITS LCO 3.5.2, ''ECCS [Emergency Coor Cooling System]—Operating''—Added a shutdown requirement for a condition where less than 100 percent of the ECCS flow equivalent to a single operable train is available.

6. ITS LCO 3.7.1, ''Main Steam Safety Valves (MSSVs)''—Reformatted to replace figure in NUREG–1430 with a table providing limitations for operation with more than one inoperable MSSV per steam generator.

7. ITS LCO 3.4.13, ''RCS Operational LEAKAGE''—Modified surveillance requirement to specify that the surveillance is not required until after the plant is at or near operating pressure.

8. ITS Administrative Controls 5.5.1, ''Offsite Dose Calculation Manual (ODCM)''—Reference reports by name only instead of NUREG–1430 convention of including report name and associated TS.

9. ITS Administrative Controls 5.2.2, ''Unit Staff''—Reference to specific operator staffing requirements is replaced with a reference to the applicable regulation.

10. ITS LCO 3.6.3, ''Reactor Building Isolation Valves''—Surveillance requirement in NUREG–1430 not adopted for reactor building purge

valves since ANO–1 does not have resilient seated valves.

11. ITS LCO 3.6.4, ''Reactor Building Pressure''—Lower limit on reactor building pressure increased to a more restrictive value to be consistent with ECCS analyses and Bases statements in NUREG–1430.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By July 30, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr@nrc.gov. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing and petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the request for a hearing and the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 28, 2000, as supplemented by letters dated August 9 and September 28, 2000, and February 6, March 19, and May 1, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 21st day of June 2001.

For the Nuclear Regulatory Commission.

William D. Reckley,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–16266 Filed 6–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338, 339, 280, and 281]

Virginia Electric Power Company, North Anna, Units 1 and 2, and Surry, Units 1 and 2; Notice of Receipt of Application for Renewal of Facility Operating License Nos. NPF–4, NPF–7, DPR–32, AND DPR–37 for an Additional 20-Year Period

The Nuclear Regulatory Commission has received applications from Virginia Electric Power Company, dated May 29, 2001, filed pursuant to Section 104b of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 54 for renewal of Operating License Nos. NPF–4, NPF–7, DPR–32, and DPR–37, which authorize the applicant to operate North Anna Nuclear Station, Units 1 and 2, and Surry Nuclear Station, Units 1 and 2, respectively. The North Anna nuclear facility is located 40 miles northwest of Richmond, VA, in Louisa County. The current operating licenses for North Anna, Units 1 and 2, expire on April 1, 2018, and August 21, 2020, respectively. The Surry nuclear facility is located 17 miles northwest of Newport News, VA, in Surry County. The operating licenses for Surry, Units 1 and 2, expire on May 25, 2012, and January 29, 2013, respectively. All four Virginia Electric Power Company nuclear units are three-loop pressurized-water reactors designed by Westinghouse. The acceptability of the tendered applications for docketing and other matters, including an opportunity to request a hearing will be the subject of a subsequent **Federal Register** notice.

A copy of the applications are available electronically for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/NRC/ADAMS/index.html.* In addition, the applications are available on the NRC web page at *http://www.nrc.gov/NRC/REACTOR/LR/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

The staff has verified that a copy of the license renewal application for the North Anna nuclear station has been provided to the Alderman Library at the University of Virginia, and that a copy of the license renewal application for the Surry nuclear station has been provided to the Swem Library at the College of William and Mary.

Dated at Rockville, Maryland, the 22nd day of June 2001.

For the Nuclear Regulatory Commission.

Christopher I. Grimes,

Chief, License Renewal and Standardization Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–16265 Filed 6–27–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Proposed guidelines.

SUMMARY: This notice requests comment on proposed guidelines for implementing Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554). Section 515 directs the Office of Management and Budget (OMB) to issue government-wide guidelines that ''provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.'' Within one year after OMB issues these guidelines, agencies must issue their own implementing guidelines that include ''administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency'' that does not comply with the OMB guidelines.

DATES: Comments must be received by August 13, 2001.

ADDRESSES: Comments on the proposed guidelines should be addressed to Brooke Dickson of the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Brooke Dickson at phone: (202) 395–3191; fax: (202) 395–5167; e-mail: informationquality@omb.eop.gov.

SUPPLEMENTARY INFORMATION: In Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658), Congress directed the Office of Management and Budget (OMB) to issue, by September 30, 2001, government-wide guidelines that ''provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.'' Section 515(b) goes on to state that the OMB guidelines shall:

(1) Apply to the sharing by Federal agencies of, and access to, information disseminated by Federal agencies; and

(2) Require that each Federal agency to which the guidelines apply—

(A) Issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency, by not later than 1 year after the date of issuance of the guidelines under subsection (a);

(B) Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines issued under subsection (a); and

(C) Report periodically to the Director—

(i) The number and nature of complaints received by the agency regarding the accuracy of information disseminated by the agency; and

(ii) How such complaints were handled by the agency.

Background

The focus of Section 515 is on the Federal Government's information dissemination activities. Indeed, Federal agencies have disseminated information to the public for decades. Until recently, agencies have disseminated information principally by making paper copies of documents available to the public. In recent years, however, Federal information dissemination has grown due to the advent of the Internet, which has ushered in a revolution in communications. The Internet has enabled Federal agencies to disseminate an ever increasing amount of information. Congress has strongly encouraged the Executive Branch's dissemination efforts in statutes that include particular dissemination activities and in the government-wide dissemination provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) (the PRA). In addition, the Executive Branch's strong support for information dissemination is reflected in the dissemination provisions of OMB Circular A–130, ''Management of Federal Information Resources.''

Section 515 builds upon the existing agency responsibility to assure information quality. According to the PRA, agency Chief Information Officers (CIOs) must manage information resources to ''improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security.'' Before an agency collects information from 10 or more persons, the agency must seek public comment ''to enhance the quality, utility, and clarity of the information to be collected.'' The agency then must obtain OMB approval that is based upon an evaluation of the agency's need for the information, the ''practical utility'' of the information to be collected, and the burden that would be imposed on the public in responding to the collection. The CIO must certify to OMB that the agency, ''to the maximum extent practicable, uses information technology to reduce burden and improve data quality.''

In developing the proposed guidelines to implement Section 515, OMB recognizes that Federal agencies disseminate many types of information in many different ways. Even numerous examples can only begin to describe the breadth of information disseminated by the Federal government. Agencies disseminate statistical information, such as the aggregated information from the 2000 Census and the monthly and quarterly economic reports issued by the Bureau of Economic Analysis and the Bureau of Labor Statistics. Agencies disseminate information that aids members of the public in their daily activities, such as the National Weather Service's weather reports and the FAA's air travel advisories. Agencies disseminate information that they collect from regulated entities, such as EPA's dissemination of Toxic Release Inventory information. Agencies disseminate information that they create or obtain in the course of developing regulations, often involving scientific research and economic analysis. Agencies disseminate information when they issue reports and studies. Moreover, agencies provide the public with basic descriptions of agency authorities, activities and programs, along with the contact information for the public to interact with and access that information or those services.

Underlying Principles

In accordance with Section 515, OMB has designed the proposed guidelines to help agencies ensure and maximize the quality, utility, objectivity and integrity of the information that they disseminate. It is crucial that Federal agencies disseminate information that meets these standards. In this respect, the fact that the Internet enables persons to communicate information quickly and easily to a wide audience not only offers great benefits to society, but also increases the potential harm that can result from the dissemination of information that does not meet OMB and agency information quality standards. Recognizing the wide variety of information Federal agencies disseminate and the wide variety of dissemination practices that agencies have, OMB has developed the proposed guidelines with several principles in mind.

First, OMB has designed the proposed guidelines to apply to a wide variety of government-wide dissemination activities, ranging in importance and scope, through each agency's issuance of guidelines tailored to that agency's programs, dissemination activities, and information resources management and administrative practices. OMB has also designed the proposed guidelines to be generic enough to fit all media, be they in printed, electronic, or other form. OMB has sought to avoid the problems that would be inherent in attempting to develop detailed, prescriptive, ''one-size-fits-all'' government-wide guidelines that would artificially require different types of dissemination activities to be treated in the same manner.

Second, OMB has designed the guidelines so that agencies will meet basic information quality standards. Given the administrative mechanisms required by Section 515 as well as the standards set forth in the PRA, it is clear that agencies should not disseminate information that does not meet some basic level of quality. We recognize that some government information may need to meet higher or more specific information quality standards than those that would apply to other types of government information. The more important the information, the higher the quality standards to which it should be held. The guidelines recognize, however, that information quality comes at a cost. Accordingly, the agencies should weigh the costs (for example, including costs attributable to agency processing effort, respondent burden, maintenance of needed privacy, and assurances of suitable confidentiality) and the benefits of higher information quality in the development of such information, and the level of quality to which the information disseminated will be held.

Third, OMB has designed the proposed guidelines so that agencies can apply them in a common-sense and workable manner. It is important that these guidelines do not impose unnecessary administrative burdens that would inhibit agencies from continuing to take advantage of the Internet and other technologies to disseminate information that can be of great benefit and value to the public. In this regard, OMB encourages agencies to rely, to the extent possible, upon existing agency processes for evaluating information dissemination activities rather than require the creation of new and potentially duplicative or contradictory processes. The primary example of this is that the proposed guidelines recognize that, in accordance with OMB Circular A–130, agencies already have in place well-established information quality standards and administrative mechanisms that allow persons to seek and obtain correction of information that is maintained and disseminated by the agency. Under the proposed guidelines, agencies may continue to rely on such administrative mechanisms if they satisfy the standards in the guidelines. Similarly, agencies may rely on their implementation of the Federal Government's computer security laws (formerly, the Computer Security Act, and now the computer security provisions of the PRA) to establish appropriate security safeguards for ensuring the ''integrity'' of the information that the agencies disseminate.

Summary of Proposed Guidelines

These proposed guidelines direct agencies to develop information resources management procedures for reviewing and documenting for users the quality (including the objectivity, utility, and integrity) of information before it is disseminated. In addition, agencies are to establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the OMB guidelines. Consistent with the underlying principles we describe above, these guidelines stress the importance of having agencies apply these standards and develop their administrative mechanisms so they can be implemented in a common sense and workable manner. Moreover, agencies must apply these standards flexibly, consonant with existing agency information resources management and administrative practices, and appropriate to the nature of the information to be disseminated.

Section 515 denotes four substantive terms regarding information disseminated by Federal agencies: quality, utility, objectivity, and integrity. It is not always clear how each substantive term relates—or how the four terms in aggregate relate—to the widely divergent types of information that agencies disseminate. We have proposed a definition that attempts to establish a clear meaning so that both the agency and the public can readily judge whether a particular type of information to be disseminated does or does not meet these attributes. We specifically request comment on this definition and how it can be made clearer and less ambiguous for the agency and the public.

In the proposed guidelines, OMB points out that ''quality,'' ''utility,'' ''objectivity,'' and ''integrity'' are closely interrelated concepts. Collectively, these terms address the following three aspects of the information that is to be disseminated: whether the information is useful to all users of the information, including the public; whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner; and whether the information has been protected from unauthorized access or revision. OMB modeled the draft definitions of ''information,'' ''government information,'' ''information dissemination product,'' and ''dissemination'' on the longstanding definitions of those terms in OMB Circular A–130, but tailored them to fit into the context of these guidelines.

In addition, agencies have two reporting requirements. The first report, drafted no later than one year after the issuance of these OMB guidelines, must provide the agency's information quality guidelines that describe administrative mechanisms allowing affected persons to seek and obtain the correction of disseminated information that does not comply with these OMB guidelines. The second report is an annual report (starting a year after the issuance of the first report) detailing the number, nature, and resolution of complaints received by the agency regarding its perceived or confirmed failure to comply with these OMB guidelines.

Request for Comments

OMB has sought to craft standards and information resources management and administrative practices for ensuring information quality, utility, objectivity, and integrity that are rigorous, but that do not impose undue administrative burdens or hurdles that would inhibit or deter agencies from disseminating information that can be of great benefit to the public. The purpose of Section 515 is not to stifle information dissemination but to ensure that the public can justifiably have confidence in the information that Federal agencies disseminate and that affected persons will have administrative mechanisms for identifying problems and having the agencies take corrective action. OMB invites comments on whether the proposed guidelines have struck the appropriate balance, and suggestions for how the guidelines can be improved in this regard.

In addition, OMB specifically requests comments on the following questions:

- Federal agencies disseminate many types of information for many types of programs and functions. Should the OMB guidelines devote particular attention to specific types of information or information dissemination products? If so, please identify the areas where specific focus should be directed, explain why the focus is needed or is desirable, and describe any guidelines that you recommend for those areas.
- Should OMB develop specific guidelines to address information that Federal agencies disseminate from a web page? Is there any need to adapt these guidelines to the agency use of a web page? If so, what guidelines are needed?

OMB appreciates any comments on these and any other aspects of the proposed guidelines. After considering the comments that are received, OMB will develop and issue the final guidelines by September 30, 2001.

Dated: June 20, 2001.

Donald R. Arbuckle,

Deputy Administrator, Office of Information and Regulatory Affairs.

Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

I. OMB Responsibilities

Section 515 of the Treasury and General Government Appropriations Act for FY2001 (Pub. L. 106–554) directs the Office of Management and Budget to issue government-wide guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies.

II. Agency Responsibilities

Section 515 directs agencies to—

1. Issue their own information quality guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency no later than one year after the date of issuance of the OMB guidelines;

2. Establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these OMB guidelines; and

3. Report to the Director of OMB the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines concerning the quality (including the objectivity, utility, and integrity) of information and how such complaints were resolved.

III. Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

1. Overall, agencies should adopt a high standard of quality (including objectivity, utility, and integrity) as a performance goal and should take appropriate steps to incorporate information quality criteria into agency information dissemination practices. Quality is to be ensured and established at levels appropriate to the nature of the information to be disseminated.

2. As a matter of good and effective agency information resources management, agencies should develop a process for reviewing and documenting for users the quality (including the objectivity, utility, and integrity) of information before it is disseminated. Agencies should treat information quality as integral to every step of an agency's use of information, including creation, collection, maintenance, and dissemination. This process should enable the agency to attest to the quality of the information it has disseminated.

Discussion. Agencies may want to consider developing different processes to address different types of information. Many statistical and research organizations already possess a wealth of quality standards and evaluative processes that agencies may want to draw from. For example, OMB has issued ''Guidelines to Standardize Measures of Costs and Benefits and the Format of Accounting Statements'' (OMB Memorandum M–00–08, March 22, 2000) to standardize the way agencies should measure the benefits and costs of Federal regulatory actions.

In a larger information management context, agencies should consider using their Enterprise Architecture (EA) (as

required by the Information Technology Management Reform Act (Public Law 104–106) also known as ''Clinger-Cohen'') to help determine how existing resources can best fill needs for quality data.

3. As a matter of citizen review, agencies should establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these OMB guidelines. These administrative mechanisms should be consonant with established agency practice, flexible, and appropriate to the nature of the disseminated information.

IV. Agency Reporting Requirements

Discussion. The reporting requirements imposed on agencies by Section 515 build upon Section 9(a)(4) of OMB Circular A–130, ''Management of Federal Information Resources.'' Under that provision, agency Chief Information Officers must:

''Monitor agency compliance with the policies, procedures, and guidance in this Circular. Acting as an ombudsman, the Chief Information Officer must consider alleged instances of agency failure to comply with this Circular, and recommend or take appropriate action. The Chief Information Officer will report instances of alleged failure and their resolution annually to the Director of OMB, by February 1st of each year.'' (65 FR 77684, December 12, 2000).

1. The Chief Information Officer (CIO) of each agency serves as an ombudsman in resolving complaints about the agency's compliance with Circular A–130, and, consistent with agency practice and existing organizational responsibilities, with these guidelines.

2. The agency should respond in written form to the complainant.

3. The agency must draft a report, no later than one year after the issuance of these OMB guidelines, providing the agency information quality guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the agency. This report also must detail the administrative mechanisms developed by that agency to allow affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these OMB guidelines.

4. The agency must submit this draft report to the Director of OMB for review. Upon completion of that review and completion of this report, agencies must publish notice of the availability of this report in the **Federal Register**, and post this report on the agency's web site (in a way similar to the Freedom of Information Act citizen handbooks that each agency maintains in its electronic reading room).

5. On an annual basis (starting a year after the issuance of the first report in the **Federal Register**), each agency must submit a report to the Director of OMB detailing the number and nature of complaints received by the agency regarding agency compliance with these OMB guidelines concerning the quality (including the objectivity, utility, and integrity) of information and how such complaints were resolved. Agencies should submit these reports under the reporting requirement for the Government Performance and Results Act (GPRA).

V. Definitions

1. ''Quality,'' ''Utility,'' ''Objectivity,'' and ''Integrity'' are closely interrelated concepts. Collectively, these terms address the following three aspects of the information that is to be disseminated:

A. Whether the information is useful to all users of the information, including the public. In assessing the usefulness of information that the agency disseminates to the public, the agency needs to consider the uses of the information not only from the perspective of the agency but also from the perspective of the public. As a result, when the issues of the reproducibility and transparency of the information are relevant for assessing the information's usefulness from the public's perspective, the agency must take care to ensure that reproducibility and transparency have been taken into account. For disseminated information to be useful, the presentation should clearly reflect the quality of the information.

Discussion. In developing and reviewing proposed collections of information under the PRA, OMB and the agencies have for the past 20 years evaluated collections under the rubric of ''practical utility.'' As agencies and OMB have interpreted the PRA definition of ''practical utility'' over the past 20 years, it is clear that it has focused not only on usefulness to the agency, but also—as appropriate—on usefulness to the public. In the context of Section 515, with the emphasis on dissemination to the public, the focus is expanded explicitly to include a dimension of the usefulness of the information to those to whom the agency disseminates it.

B. Whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner.

i. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation. Also, the agency needs to identify the sources of the disseminated information (to the extent possible, consistent with confidentiality protections), so that the public can assess for itself whether there may be some reason to question the objectivity of the sources.

ii. In addition, in the context of scientific and statistical information, this also involves a focus on assuring accurate, reliable, and unbiased information.

a. With respect to scientific research information, the results must be substantially reproducible upon independent analysis of the underlying data.

b. In a statistical context, the information was obtained using sound statistical methods and error sources affecting data quality are identified and disclosed to users.

C. Whether the information has been protected from unauthorized access or revision, to ensure that the information is not compromised through corruption, or falsification.

(For ease of reference, the Guidelines will sometimes refer to these four statutory terms, collectively, as ''quality.'')

2. ''Information'' means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that an agency disseminates from a web page, but does not include the provision of hyperlinks to information others disseminate.

3. ''Government information'' means information created, collected, processed, disseminated, or disposed of by or for the Federal Government.

4. ''Information dissemination product'' means any book, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, an agency disseminates to the public. This definition includes any electronic document, CD–ROM, or web page.

5. ''Dissemination'' means the government initiated distribution of information to the public. Dissemination does not include

distribution limited to government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act (5 U.S.C. 552) or Privacy Act. This definition also does not include distribution limited to replies to correspondence, and subpoenas or judicial process.

[FR Doc. 01–16227 Filed 6–27–01; 8:45 am]

BILLING CODE 3110–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 10 a.m., Monday, July 9, 2001; 9 a.m., Tuesday, July 10, 2001.

PLACE: Evansville, Indiana, at the Aztar Hotel, 421 Northwest Riverside Drive, in the Las Vegas and Atlantic City Rooms.

STATUS: July 9 (Closed); July 10 (Open).

MATTERS TO BE CONSIDERED:

Monday, July 9–10 a.m. (Closed)

1. Financial Performance.
2. Fiscal Year 2002 Establish/Deploy Report.
3. Fiscal Year 2002 EVA Pay for Performance Program.
4. Fiscal Year 2002 Financial Outlook.
5. Rate Case Briefing.
6. EEO Feasibility Study.
7. Update on Five-Day Delivery Study.
8. Strategic Planning.
9. Comprehensive Issues.
10. Personnel Matters.

Tuesday, July 10—9 a.m. (Open)

1. Minutes of the Previous Meeting, June 4–5, 2001.
2. Remarks of the Postmaster General and CEO.
3. Quarterly Report on Service Performance.
4. Capital Investments.
   a. Bethesda, West Bethesda Branch, Maryland.
   b. Fairfax, Virginia, Main Post Office.
5. Report on the Kentuckiana Performance Cluster.
6. Tentative Agenda for the August 6, and September 10–11, 2001, meetings in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC. 20260–1000. Telephone (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–16456 Filed 6–26–01; 2:06 pm]

BILLING CODE 7710–12–M

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:* Employer Reporting.

(2) *Form(s) submitted:* AA–12, G–88A.1, G–88A.2, Ba–6a.

(3) *OMB Number:* 3220–0005.

(4) *Expiration date of current OMB clearance:* 11/30/2003.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Business or other for profit, individuals or households.

(7) *Estimated annual number of respondents:* 2,968.

(8) *Total annual responses:* 2,968.

(9) *Total annual reporting hours:* 474.

(10) *Collection description:* Under the Railroad Retirement Act and the Railroad Unemployment Insurance Act, railroad employers are required to report service and compensation for employees needed to determine eligibility to and amount of benefits paid.

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, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–16275 Filed 6–27–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Existing Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, D.C. 20549.

Extension:

Rule 17j–1, SEC File No. 270–239, OMB Control No. 3235–0224

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17j–1 [17 CFR 270.17j–1] under the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Investment Company Act''), which the Commission adopted in 1980 [1] and amended in 1999,[2] implements section 17(j) of the Act, which makes it unlawful for persons affiliated with a registered investment company or with the investment company's investment adviser or principal underwriter (each, a ''17j–1 organization''), in connection with the purchase or sale of securities held or to be acquired by the investment company, to engage in any fraudulent, deceptive, or manipulative act or practice in contravention of the Commission's rules and regulations. Section 17(j) also authorizes the Commission to promulgate rules requiring the rule 17j–1 organizations to adopt codes of ethics.

In order to implement section 17(j), rule 17j–1 imposes certain requirements on 17j–1 organizations and ''Access Persons'' [3] of those organizations. The rule prohibits fraudulent, deceptive or manipulative acts by persons affiliated with a rule 17j–1 organization in connection with their personal securities transactions in securities held or to be acquired by the fund. The rule requires each 17j–1 organization, unless it is a money market fund or a fund that

[1] Prevention of Certain Unlawful Activities With Respect To Registered Investment Companies, Investment Company Act Release No. 11421 (Oct. 31, 1980) [45 FR 73915 (Nov. 7, 1980)].

[2] Personal Investment Activities of Investment Company Personnel, Investment Company Act Release No. 23958 (Aug. 20, 1999) [64 FR 46821–01 (Aug. 27, 1999)].

[3] Rule 17j–1(a)(1) defines an ''access person'' as ''any director, officer, general partner, or advisory person of a fund or of a fund's investment adviser'' and as ''any director, officer, or general partner of a principal underwriter who, in the ordinary course of business, makes, participates in or obtains information regarding, the purchase or sale of Covered Securities by the Fund for which the principal underwriter acts, or whose functions or duties in the ordinary course of business relate to the making of any recommendation to the Fund regarding the purchase or sale of Covered Securities.''

does not invest in Covered Securities,[4] to: (i) Adopt a written codes of ethics, (ii) submit the code and any material changes to the code, along with a certification that it has adopted procedures reasonably necessary to prevent Access Persons from violating the code of ethics, to the fund board for approval, (iii) use reasonable diligence and institute procedures reasonably necessary to prevent violations of the code, (iv) submit a written report to the fund describing any issues arising under the code and procedures and certifying that the 17j–1 entity has adopted procedures reasonably necessary to prevent Access Persons from violating the code, (v) identify Access Persons and notify them of their reporting obligations, and (vi) maintain and make available to the Commission for review certain records related to the code of ethics and transaction reporting by Access Persons.

The rule requires each Access Person of a fund (other than a money market fund or a fund that does not invest in Covered Securities) and of an investment adviser or principal underwriter of the fund, who is not subject to an exception,[5] to file: (i) Within ten days of becoming an Access Person, a dated initial holdings report that sets forth certain information with respect to the access person's securities and accounts, (ii) within ten days of the end of each calendar quarter, a dated quarterly transaction report providing certain information with respect to any securities transactions during the quarter and any account established by the Access Person in which any securities were held during the quarter, and (iii) dated annual holding reports providing information with respect to each covered security the Access Person beneficially owns and accounts in which securities are held for his or her benefit. In addition, rule 17j–1 requires investment personnel of a fund or its investment adviser, before acquiring beneficial ownership in securities through an initial public offering (IPO) or in a private placement, to obtain approval from the fund or the fund's investment adviser.

The requirements that the management of a rule 17j–1 organization provide the fund's board with new and amended codes of ethics and an annual issues and certification report are intended to enhance board oversight of personal investment policies applicable to the fund and the personal investment activities of access persons. The requirements that Access Persons, who are not subject to an exception, provide initial holdings reports, quarterly transaction reports, and annual holdings reports and request approval for purchases of securities through IPOs and private placements are intended to help fund compliance personnel and the Commission's examinations staff monitor potential conflicts of interest and detect potentially abusive activities. The requirement that each rule 17j–1 organization maintain certain records is intended to assist rule 17j–1 organizations and the Commission's examinations staff in determining whether there have been violations of rule 17j–1.

The Commission estimates that each year a total of 80,706 Access Persons and 17j–1 organizations are subject to the rule's reporting requirements.[6] Respondents provide approximately 113,896 responses each year. Each initial holdings report takes approximately forty-two minutes for each of the approximately 10,400 new Access Person each year to prepare. We estimate that each year Access Persons file approximately 30,000 quarterly transaction reports, each of which takes approximately twenty minutes to prepare. We estimate that each year approximately 75,000 Access Persons file annual holdings reports, each of which takes approximately forty-two minutes to prepare. We estimate that Access Persons file approximately 680 requests for preapproval of purchases of securities through initial public offerings and private placements, each of which takes approximately twenty-six minutes to prepare. In the aggregate, Access Persons spend approximately 70,000 hours per year complying with the reporting requirements under the rule.

We estimate that the industry spends approximately 37,000 hours notifying Access Persons of their reporting obligations and overseeing the reporting. We estimate that the industry spends approximately 3,600 hours per year preparing the annual reports regarding issues under the code of ethics and accompanying certifications to fund boards. We estimate that the industry spends approximately 2,500 hours a year preparing new codes of ethics for presentation to fund boards and approximately 1,200 hours per year preparing amendments for presentation to fund boards. We estimate that the industry spends approximately 370 hours per year documenting its approval of requests to purchase securities through initial public offerings or private placements. We estimate that the industry spends approximately 146,500 hours each year maintaining rule 17j–1 records and 13,500 hours maintaining and upgrading their electronic reporting and recordkeeping systems related to rule 17j–1. In the aggregate, 17j–1 organizations spend approximately 204,300 hours per year complying with their reporting and recordkeeping requirements under the rule and ensuring that Access Persons fulfill their reporting obligations. The total annual burden of the rule's paperwork requirements is, therefore, estimated to be approximately 274,300 hours.[7]

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days for this publication.

[4] A ''Covered Security'' is any security that falls within the definition in section 2(a)(36) of the Act, except for direct obligations of the U.S. Government, bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements, and shares issued by open-end funds. Rule 17j–1(a)(4).

[5] Rule 17j–1(d)(2) exempts Access Persons from reporting in five instances in which reporting would be duplicative or would not serve the purposes of the rule.

[6] Funds that are money market funds or that invest only in securities excluded from the definition of ''security'' in rule 17j–1, and any investment advisers, principal underwriters, and Access Persons to these funds, do not have to comply with the rule's requirements concerning codes of ethics, quarterly transaction reports, and initial holdings reports. The estimated number of respondents reported in this section may therefore overstate the number of entities actually required to comply with the rule's requirements.

[7] This estimate represents an increase from the approximately 156,700 burden hours estimated in connection with the Commission's last request for a PRA extension for rule 17j–1. The increase in burden hours is attributable to updated information about the number of affected respondents, and revised estimates of the component parts of the burden estimate in light of the industry's experience in implementing the recent amendments to the rule.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, NW., Washington, DC 20549.

Dated: June 20, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16254 Filed 6–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44462; File No. SR–CBOE–00–22]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Automatic Execution of Certain Orders on the Exchange's Electronic Limit Order Book

June 21, 2001.

On June 1, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the automatic execution of certain orders on the Exchange's electronic limit order book. Notice of the proposed rule change and Amendment Nos. 1 and 2 thereto were published for comment in the **Federal Register** on May 7, 2001.[3] No comments were received on the proposed rule change, as amended.

The Exchange proposes to amend its rules governing the operation of its Retail Automatic Execution System (''RAES'') to provide for the automatic execution, under certain circumstances, of orders in the Exchange's electronic limit order book when they become marketable. The Exchange proposes to implement a system enhancement called ''Autoquote Triggered EBook Execution'' (''Trigger'') to particular option classes, as determined by the appropriate Floor Procedure Committee. Trigger will allow orders resting in the book to be automatically executed where the bid or offer for a series of options generated by the Exchange's Autoquote system (or any Exchange-approved proprietary quote generation system used in lieu of Autoquote) is equal to or crosses the Exchange's best bid or offer for that series as established by a booked order. Only series in which Autoquote (or any Exchange-approved quote generation system) is employed are eligible for Trigger.

Where Trigger has been activated, as Autoquote changes and the quote generated by Autoquote either touches or crosses an order in the book, the booked order(s) will be automatically executed up to the applicable RAES contract limit. The booked order then will be immediately taken out of the book and a last sale will be disseminated. A ticket will be printed on the book printer notifying the book clerk that a trade has been executed and an endorsement is required. After the book clerk verifies with the Designated Primary Market-Maker (''DPM'') that the trade is valid based on movements in the underlying security, the trade will be endorsed by the book clerk.[4] In most instances, it will be endorsed to the RAES ''wheel'' up to the applicable RAES contract limit. However, the Trigger system will have the functionality to allow the trade to be endorsed manually (as is done today) when appropriate.

If the number of contracts in the book is greater than the applicable RAES contract limit, the trading crowd will manually execute the remainder. In the limited circumstance where contracts remain in the book after a Trigger execution and a disseminated quote remains locked or crossed, orders in RAES for options of that series will be ''kicked-out'' of RAES, and immediately and automatically routed to the crowd Public Automated Routing (''PAR'') terminal (absent contrary instructions of the firm), where they will be represented by the broker and, if executable, will ordinarily be executed immediately. Because these orders remain RAES eligible, they will be entitled to receive firm quote treatment when represented in the crowd.

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.[5] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The proposed rule change should help provide faster execution of customer orders, while reducing the burden on the Exchange's DPMs with respect to manual execution of booked orders, limiting the number of book trade-throughs, and eliminating a large number of RAES kick-outs.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–CBOE–00–22) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16206 Filed 6–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44458; File No. SR–MSRB–2001–03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to the Establishment of an Optional Procedure for Electronic Submissions of Required Materials Under Rule G–36, on Delivery of Official Statements, Advance Refunding Documents and Forms G–36(OS) and G–36(ARD) to the MSRB

June 20, 2001.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[1] notice is hereby given that on June 7, 2001, the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change (File No. SR–MSRB–2001–03) (''proposed rule change'') described in Items, I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44236 (April 30, 2001), 66 FR 23055 (May 7, 2001).

[4] If the DPM determines that the trade is not valid, *e.g.,* if the trade was based on an erroneous print in the underlying security, the order will be re-booked and the last sale canceled.

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MSRV has filed with the SEC a proposed rule change establishing an optional procedure for electronic submissions of required materials under rule G–36, on delivery of official statements, advance refunding documents and Forms G–36(OS) and G–36(ARD) to the MSRB. The proposed rule change consists of (i) an amendment to the MSRB facility currently known as the Official Statement and Advance Refunding Document—Paper Submission system (OS/ARD) of the Municipal Securities Information Library® system or MSIL® system [2] (the ''OS/ARD Facility'') and (ii) an amendment to rule G–36. The MSRB expects the optional procedure for electronic submissions to become operational on the later of January 1, 2002 or 60 days after SEC approval. The text of the proposed rule change is set forth below. Additional are italicized and underlined; [ ] means elections.

OS/ARD Facility—Official Statement and Advance Refunding Document [—Paper Submission] system (OS/ARD) of the Municipal Securities Information Library® System or MSIL ® System

(No change to existing text—the following text is inserted at the end of existing text)

Optional Procedure for Electronic Submissions

Consistent with the Board's stated objectives to pursue collection of electronic submissions of official statements and advance refunding documents, the Board is implementing an optional procedure for electronic submission by underwriters of official statement, advance refunding documents and Forms G–36(OS) and G–36(ARD), together with amendments thereto, to the MSIL® system. Underwriters are not required to make submissions electronically and the Board will continue to accept submissions made on paper. The Board expects the optional procedure for electronic submissions to become operational on the later of January 1, 2002 or 60 days after Commission approval.

Electronic submissions will be made by underwriters through a secured, password-protected Internet website. Forms G–36(OS) and G–36(ARD) will be submitted by completion of an on-line form. On-line forms will elicit the same information as paper Forms G–36(OS) and G–36(ARD) and will be in substantially the same format. Notice of cancellation of an issue also will be affected by means of on-line entry of information by the underwriter. Official statements and advance refunding documents will be submitted by underwriters by uploading through the website simultaneously with the completed on-line forms. Underwriters will receive electronic records of submissions.

All official statements, advance refunding documents and amendments submitted electronically must be in Adobe Acrobat® portable document format (''PDF''). Such documents may be either a ''native'' PDF file or a scanned image PDF file. For scanned image PDE files, underwriters are required to use a resolution of 300 dpi. Underwriters may be required to compress submissions using file compression software in order to speed transmission times.

Documents submitted electronically will be included in the daily and back-log collections currently produced by the MSIL® system and also will available for viewing and printing at the public access facility. Upon the electronic system becoming operational, the Board will disseminate new submissions (whether submitted electronically or in paper form) as PDF files.

Rule G–36. Delivery of Official Statements, Advance Refunding Documents and Forms G–36(OS) and G–36(ARD) to Board or Its Designee

(a) No change.

(b) Delivery Requirements for Issues Subject to Securities Exchange Act Rule 15c2–12.

(i) Each broker, dealer or municipal securities dealer that acts as an under writer in a primary offering of municipal securities subject to Securities Exchange Act rule 15c2–12 shall send to the Board or its designee [by certified or registered mail, or some other equally prompt means that provides a record of sending], within one business day after receipt of the official statement from the issuer or its designated agent, but no later than 10 business days after any final agreement to purchase, offer, or sell the municipal securities, [the following documents and written information: two copies of] the final official statement[;] and [two copies of] completed Form G–36(OS) prescribed by the Board, including the CUSIP number or numbers for the issue.

(ii) If the issue advance refunds an outstanding issue of municipal securities *and an advance refunding document is prepared by or on behalf of the issuer,* each broker, dealer or municipal securities dealer that acts as an underwriter in such issue also shall send to the Board or its designee [by certified or registered mail, or some other equally prompt means that provides a record of sending], within five business days of delivery of the securities by the issuer to the broker, dealer, or municipal securities dealer, [the following documents and written information: two copies of] the advance refunding *document and* [documents if prepared by or on behalf of the issuer; and, if the advance refunding documents are prepared, two copies of the] completed Form G–36(ARD) prescribed by the Board, including reassigned CUSIP number or numbers for the refunded issue, if any. (c) Delivery Requirements for Issues not Subject to Securities Exchange Act Rule 15c2–12.

(i) Subject to paragraph (iii) below, each broker, dealer, or municipal securities dealer that acts as an underwriter in a primary offering of municipal securities not subject to Securities Exchange Act rule 15c2–12 for which an official statement in final form is prepared by or on behalf of the issuer shall send to the Board or its designee, [by certified or register mail, or some other equally prompt means that provides a record of sending,] by the later of one business day after delivery of the securities by the issuer to the broker, dealer, or municipal securities dealer or none business day after receipt of the official statement in final form from the issuer or its designated agent, [the following documents and written information: two copies of] the official statement in final form[;] and [two copies of] completed Form G–36(OS) prescribed by the Board, including the CUSIP number or numbers for the issue.

(ii) [if an official statement in final form and] if the issue advance refunds an outstanding issue of municipal securities *and both an official statement in final form and an advance refunding document are prepared by or on behalf of the issuer,* each broker, dealer, or municipal securities dealer that acts as an underwriter in such issue also shall send to the Board or its designee [by certified or registered mail, or some other equally prompt means that provides a record of sending], within five business days of delivery of the securities by the issuer to the broker, dealer, or municipal securities dealer, [the following documents and written information: two copies of] the advance refunding *document and* [documents if prepared by or on behalf of the issuer; and, if the advance refunding documents are prepared, two copies of] completed Form G–36(ARD) prescribed by the Board, including reassigned CUSIP number or numbers for the refunded issue, if any.

(iii) No change.

(d) Amended Official Statements. In the event a broker, dealer, or municipal securities dealer provides to the Board or its designee an official statement pursuant to section [s] (b) or [(c)] above, and the official statement is amended or ''stickered'' by the issuer during the underwriting period, such broker, dealer, or municipal securities dealer must send to the Board or its designee, [by certified or registered mail, or some other equally prompt means that provides a record of sending, two copies of the amended official statement] within one business day *after* [of] receipt *of the amended official statement* from the issuer[, along with] *or its designated agent, the amended official statement and an amended Form G–36(OS) as prescribed by the Board,* [two copies of a statement] including: The CUSIP number or numbers for the issue; the fact that the official statement previously had been sent to the Board or its designee and that the official statement has been amended.

(e)–(f) No change.

(g) Method of Delivery. A broker, dealer or municipal securities dealer that submits documents or forms required to be sent to the Board or its designee pursuant to section (b), (c) or (d) above shall either:

(i) Sent two copies of each such document or form to the Board or its designee by certified or registered mail, or some other equally prompt means that provides a record of sending; or

(ii) Submit an electronic version of each such document or form to the Board or its

[2] Municipal Securities Information Library and MSIL are registered trademarks of the MSRB.

designee in such format and manner specified in the current Form G–36 Manual.

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 MSRB 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 texts of these statements may be examined at the places specified in Item IV below. The MSRB 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

(a) Rule G–36 requires that a broker, dealer or municipal securities dealer (a ''dealer'') that acts as managing or sole underwriter for most primary offerings send the official statement and Form G–36(OS) to the MSIL® system within certain time frames set forth in the rule.[3] In addition, if the offering is an advance refunding and an advance refunding document has been prepared, the advance refunding document and Form G–36 (ARD) also must be sent to the MSIL® system by the managing or sole underwriter.[4] In an interpretive notice published by the MSRB in November 1998 (the ''1998 MSRB Notice''), the MSRB described standards that dealers should meet in order to satisfy document delivery obligations under MSRB rules by means of electronic communications.[5] At that time, the MSRB deferred accepting electronic submissions under rule G–36 pending resolution of then on-going industry debate over electronic formatting of disclosure materials.[6]

Since publication of the 1998 MSRB Notice, the MSRB has undertaken, as one of its chief goals under its current long range plan, the role of serving as a catalyst for improving and modernizing disclosure practices in the primary and secondary municipal securities markets. In this role, the MSRB has hosted several disclosure forums and industry roundtable discussions focused both on industry-wide practices and practices in specific sectors where disclosure issues have been particularly troublesome. In addition, the MSRB and a number of industry groups have recently agreed to launch a process of long-range planning designed to further industry initiatives in the area of disclosure.

Most participants at these industry forums and roundtables have agreed that improvements in disclosure practices will be highly dependent on the establishment of reliable systems for electronic dissemination of information. In support of secondary market disclosure initiatives, the MSRB launched its current test program of electronic submission and dissemination of continuing disclosure information, known as CDINet Web Test.[7] In the primary market, in addition to making clear that dealers may meet their obligation to deliver official statements to new issue customers under rule G–32 by use of electronic media as provided in the 1998 MSRB Notice, the MSRB has remained attentive to developing industry practices (*e.g.,* the increasing use of electronic preliminary and final official statements), attempts by industry groups to reach consensus on technical issues relating to electronic primary market disclosure (*e.g,* the work of the Task Force on Electronic Information Delivery of The Bond Market Association) and further interpretive guidance on the use of electronic media issued by the Commission in 2000 (the ''2000 SEC Interpretation'').[8] At the same time, the MSRB has made efforts to understand the needs and desires of investors, who are the ultimate end-users of primary market disclosure.[9]

Although industry-wide consensus on certain key issues as they relate to electronic official statements continues to be elusive, the MSRB believes that it can take steps to implement an electronic system for submissions under rule G–36 without final resolution of such issues. Thus, the MSRB is implementing an optional system of electronic submission by underwriters of official statements, advance refunding documents and Forms G–36(OS) and G–36(ARD) to the MSIL® system. The MSRB also is amending rule G–36 in order to effectuate this electronic system. The new system will allow underwriters that are prepared to make submissions electronically to do so while continuing to allow paper submissions for those who prefer that method.

(b) The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which requires that the MSRB's rules:

> be 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers,

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[3] For primary offerings subject to Exchange Act Rule 15c2–12, the final official statement and Form G–36(OS) must be sent to the MSIL® system within one business day after receipt of the official statement from the issuer, but no later than ten business days after the sale date of the offering. For most primary offerings exempt from Rule 15c2–12 for which an official statement in final form is being prepared, such official statement and Form G–36(OS) must be sent to the MSIL® system by the later of one business day after the closing of the underwriting or one business day after receipt of the official statement from the issuer. Rule G–36(c)(iii) provides exemptions from the rule requirements for certain limited types of offerings.

[4] The advance refunding document and Form G–36(ARD) must be sent to the MSIL® system within five business days after the closing of the underwriting.

[5] *See* Rule G–32 Interpretation—Notice Regarding Electronic Delivery and Receipt of Information by Brokers, Dealers and Municipal Securities Dealers, November 20, 1998, *MSRB Rule Book* (January 1, 2001) at 163. These standards are the same as those established by the Commission for brokers, dealers, issuers and others in the corporate markets in interpretative releases published in 1995 and 1996. *See* ''Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information,'' Securities Act Release No. 7288, Exchange Act Release No. 37182 (May 9, 1996), 61 FR 24644 (May 15, 1996), and ''Use of Electronic Media for Delivery Purposes,'' Securities Act Release No. 7233, Exchange Act Release No. 36345 (October 6, 1995), 60 FR 53458 (October 13, 1995).

[6] The MSRB stated that ''electronic submission [under rule G–36] is complicated by the requirement that Forms G–36(OS) and G–36(ARD) be accompanied by an official statement or advance refunding document, as appropriate. Given the current debate and lack of consensus among the various sectors of the municipal securities industry regarding electronic formatting of disclosure materials, and since the Board does not have the authority to dictate the format of issuer documents, the Board believes that any further action regarding electronic submissions under rule G–36 should await resolution of these issues.'' *See* 1998 MSRB Notice at n. 5.

[7] *See* ''Test Program for the Electronic Submission of Continuing Disclosure Information to the MSRB,'' *MSRB Reports,* Vol. 19, No. 3 (Sept. 1999) at 51.

[8] *See* ''Use of Electronic Media,'' Securities Act Release No. 7856, Exchange Act Release No. 42728 (April 28, 2000), 65 FR 25843 (May 4, 2000).

[9] Some dealers have expressed concern that investors, including both retail and institutional investors, may not wish to receive official statements in electronic form or may require that they receive paper copies as well as electronic versions of official statements. Many institutional investors have agreed with this assessment, citing legal and compliance concerns under state fiduciary laws and certain federal securities laws (*e.g.,* Investment Company Act Rule 2a–7) as well as concerns about telecommunication, computer and printing system capacities and certain human factors (*e.g.,* preferences of analysts to review paper copies over on-screen text, etc.). To the extent that issuers begin producing official statements solely in electronic format while some investors continue to request paper copies, the use of electronic official statements may result in the shifting of some costs between issuers and dealers.

municipal securities brokers, or municipal securities dealers, to fix minimum profits, to impose any schedule or fix rates of commissions, allowances, discounts, or other fees to be charged by municipal securities brokers or municipal securities dealers, to regulate by virtue of any authority conferred by this title matters not related to the purpose of this title or the administration of the Board, or to impose any burden on competition not necessary or appropriate in furtherance of the purpose of this title.

The MSRB believes that the proposed rule change is consistent with the Act in that it allows for more efficient dissemination of official statements and advance refunding documents.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all underwriters.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

On September 19, 2000, the MSRB published a notice seeking comment on the establishment of an optional system of electronic submissions by underwriters of official statements, advance refunding documents and Forms G–36(OS) and G–36(ARD) to the MSIL® system. The notice also sought comment on draft amendments to rule G–36 to effectuate this optional electronic submission system.[10] The MSRB received comments from four commentators.[11] After reviewing these comments, the MSRB approved the proposed rule change for filing with the SEC.

Commentators generally were supportive of the MSRB's plans to allow electronic submissions, although certain modifications were suggested. These suggestions are discussed below.

Require paper submission in addition to optional electronic submission. One commentator suggests that underwriters submitting electronic copies should also be required to submit paper copies if they exist, arguing that some investors prefer to view official statements and advance refunding documents in paper form.[12] The MSRB believes that no benefit would result from requiring electronic submitters to also send paper copies of submissions and that requiring delivery of paper versions would substantially eliminate any incentive for underwriters to use the proposed electronic system. During the last two years, the MSRB's public access facility has registered approximately 200 visits (60% of which represent visits by a single securities research service). The documents available at the public access facility generally are viewed on or printed from an optical viewer rather than by physical review of a paper version. In addition, the MSIL® system already disseminates submissions to subscribers in electronic, rather than paper, form. The MSRB has not adopted this commentators suggested modification.

Use of PDF files. Two commentators seek to have the MSRB limit the format of electronic submissions to ''native'' PDF.[13] If imaged PDF files are permitted, one commentator suggests that they be in ''multi-page'' format and be imaged at a resolution of 200 dpi.[14] This commentator requested that files disseminated to subscribers not be in compressed format. The other commentator suggests that multi-part documents be merged into a single PDF file.[15] On the other hand, a third commentator suggests that the MSRB accept electronic submissions in any format.[16]

The MSRB believes that, based on several factors, PDF is the best suited format for purposes of an electronic submission system at this time. First, the MSRB has designed this system to accept electronic submissions of documents regardless of whether the original document is in electronic or paper form. PDF generally allows for relatively easy conversion of document files from other electronic formats to PDF as well as for the handling of imaged files created from paper documents. Documents produced in either manner generally provide a reliable and secure reproduction of the paper version, which is a significant issue for many issuers who are concerned about the vulnerability of most other formats to undetectable changes by unauthorized individuals. Also, the MSRB feels that it is preferable to restrict electronic submissions to a single format for the benefit of MSIL® subscribers, many of which already convert the imaged documents currently supplied to them by the MSRB to PDF. Finally, the SEC addressed certain concerns regarding the use of PDF files to meet securities law delivery obligations in the 2000 SEC Interpretation.[17] Based on the guidance provided by the SEC on the use of PDF files, the MSRB feels that dealers using electronic versions of official statements received from the MSIL® system (directly or through a subscriber) to make required deliveries under MSRB rules may be well situated to assure compliance with the standards set forth in the 1998 MSRB Notice.

Thus, the system will require submissions of documents solely as one or more PDF files, either in native or imaged files.[18] In addition, underwriters submitting imaged files will be required to use an image resolution of 300 dpi.[19] Files that are available for viewing at the public access facility or disseminated by the MSIL® system to subscribers will not be in compressed format. The MSRB notes that this represents an initial phase in the establishment of an optional electronic system and that further improvements will be instituted as technological innovation and changes in the marketplace dictate.

Amendments. Two commentators suggest that underwriters be permitted to submit amendments to official statements or advance refunding documenets electronically even if the original documents had been submitted in paper form.[20] As originally proposed,

[10] ''Electronic Submission of Official Statements, Advance Refunding Documents and Forms G–36(OS) and G–36(ARD), to the MSRB,'' *MSRB Reports,* Vol. 20, No. 2 (November 2000) at 17.

[11] Letter from John Palang, Product Manager—Global Imaging Solutions, Bloomberg L.P., to Harold Johnson, Deputy General Counsel of the MSRB, dated November 15, 2000 (the ''Bloomberg Letter''); letter from Amy B.R. Lancellotta, Senior Counsel, Investment Company Institute, to Ernesto A. Lanza, Associate General Counsel of the MSRB, dated November 17, 2000 (''ICI Letter''); letter from Lynette Kelly Hotchkiss, Vice President and Associate General Counsel, The Bond Market Association, to Ernesto A. Lanza, dated November 30, 2000 (''TBMA Letter''); and an anonymous e-mail dated September 19, 2000 (''Anonymous E-mail'').

[12] *See* ICI Letter.

[13] *See* Bloomberg and ICI Letters.

[14] *See* Bloomberg Letter.

[15] *See* ICI Letter.

[16] *See* TBMA Letter.

[17] *See* 2000 Interpretation at n. 34 and accompanying text.

[18] The MSRB believes that the use of native PDF files is preferable to scanned image PDF files but has not restricted submissions solely to native PDF files. If an underwriter is in a position to use or produce either a native or scanned file, the MSRB believes that the underwriter would in most instances use the native version because it would significantly reduce file size and therefore significantly increase transmission speed. Further, although the MSRB agrees that it would be most convenient that documents be submitted as a single PDF file, it believes that requiring that separate PDF files be merged into a single file (or that imaged files be only in multi-page format) may create a significant disincentive against the use of the optional electronic system. Finally, the MSRB believes that compression of files is appropriate to speed transmission times.

[19] Since some current subscribers to MSIL® system currently use an image resolution of 300 dpi, a reduction of the required image resolution to 200 dpi would degrade such subscribers' image quality. Instead, users with lower resolution needs can themselves reduce the resolution from 300 dpi to the desired resolution level.

[20] *See* ICI and TBMA Letters.

the system would permit electronic submission of amendments only if the original official statement or advance refunding document had been submitted electronically. The MSRB agrees that this would be an appropriate change, allowing for more expedited dissemination of amendmenets to official statements and advance refunding documents to the marketplace. This should help to minimize erroneous reliance on outdated documents.

Miscellaneous. One commenter suggests that the MSRB expand the definition of advance refunding document to include verification reports and defeasance opinions.[21] Although the MSRB agrees that such documents may be important in the valuation of advance refunded securities, it does not believe that underwriters are well positioned to provide such information in many circumstances, particularly since such documents often are not delivered until well after the underwriting period has lapsed.

Another commentator states that the proposed electronic system was a ''great idea'' but that ''those individual investors who do not have access to a PC will have problems.''[22] This commentator apparently has confused the obligation of underwriters to submit official statements to the MSRB under rule G–36 with the obligation of dealers selling new issue municipal securities to customers to deliver official statements to such customers under rule G–32. The MSRB understands the concern expressed by this commentator and notes that paper versions of official statements are required to be delivered to customers unless the dealer meets the requirements for electronic delivery set forth in the 1998 MSRB Notice.

III. Date of Effectiveness of the Proposed Rule Change and Timing for SEC Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[21] *See* ICI Letter.

[22] *See* Anonymous E-mail.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the MSRB's principal offices. All submissions should refer to File No. SR–MSRB–2001–03 and should be submitted by July 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16255 Filed 6–27–01; 8:45 am]

BILLING CODE 8010–01–M

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44464; File No. SR–MSRB–2001–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to In-Firm Delivery of the Regulatory Element of the Continuing Education Requirement

June 22, 2001.

On June 14, 2001, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change (File No. SR–MSRB–2001–04), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder. The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. 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 Board is filing herewith amendments to rules G–3, on professional qualifications, rule G–8, on books and records, G–9, on record retention, and G–27, on supervision. The proposed rule change will allow dealers to provide in-firm delivery of Regulatory Element of the continuing education requirement. The text of the proposed rule change is below.[1]

Rule G–3. Classification of Principals and Representatives; Numerical Requirements; Testing; Continuing Education Requirements

No broker, dealer or municipal securities dealer or person who is a municipal securities representative, municipal securities principal of financial and operations principal (as hereafter defined) shall be qualified for purposes of rule G–2 unless such broker, dealer or municipal securities dealer or person meets the requirements of this rule.

(a) through (g) No change.

(h) Continuing Education Requirements

This section (h) prescribes requirements regarding the continuing education of certain registered persons subsequent to their registration with a securities association with respect to a person associated with a member of such association, or the appropriation regulatory agency as defined in section 3(a)(34) of the Act with respect to a person associated with any other broker, dealer or municipal securities dealer (''the appropriate enforcement authority''). The requirements shall consists of a Regulatory Element and a Firm Element as set forth below.

(i) Regulatory Element

(A) through (F) No change.

(G) In-Firm Delivery of the Regulatory Element

Brokers, dealers and municipal securities dealers will be permitted to administer the continuing education Regulatory Element program to their registered persons by instituting an in-firm program acceptable to the Board.

The following procedures are required:

(1) Principal In-Charge. The broker, dealer or municipal securities dealer has designated a municipal securities principal or a general securities principal to be responsible for the in-firm delivery of the Regulatory Element.

(2) Site Requirements.

(a) The location of all delivery sites will be under the control of the broker, dealer or municipal securities dealer.

(b) Delivery of Regulatory Element continuing education will take place in an environment conducive to training. (Examples: A training facility, conference room or other area dedicated to this purpose

[1] Proposed new language is in italicized and underlined; [ ] means deletions.

would be appropriate. Inappropriate locations would include a personal office or any location that is not or cannot be secured from traffic and interruptions).

(c) Where multiple delivery terminals are placed in a room, adequate separation between terminals will be maintained.

(3) Technology Requirements. The communication links and firm delivery computer hardware must comply with standards defined by the Board or its designated vendor.

(4) Supervision.

(a) The broker, dealer or municipal securities dealer's written supervisory procedures must contain the procedures implemented to comply with the requirements of in-firm delivery of the Regulatory Element continuing education.

(b) The broker, dealer or municipal securities dealer's written supervisory procedures must identify the municipal securities principal or general securities principal designated pursuant to section (h)(i)(G)(1) of this rule and contain a list of individuals authorized by the broker, dealer or municipal securities dealer to serve as proctors.

(c) Firm locations for delivery of the Regulatory Element continuing education will be specifically listed in the broker, dealer or municipal securities dealer's written supervisory procedures.

(5) Proctors.

(a) All sessions will be proctored by an authorized person during the entire Regulatory Element session. Proctors must be present in the session room or must be able to view the person(s) sitting for Regulatory Element continuing education through a window or by video monitor.

(b) The individual responsible for proctoring at each administration will sign a certification that required procedures have been followed, that no material from Regulatory Element continuing education has been reproduced, and that no candidate received any assistance to complete the session. Such certification may be part of the sign-in log required under section (h)(i)(G)(6)(c) of this rule.

(c) Individuals serving as proctors must be persons registered with a self-regulatory organization and supervised by the designated principal for purposes of in-firm delivery of the Regulatory Element continuing education.

(d) Proctors will check and verify the identification of all individuals taking Regulatory Element continuing education.

(6) Administration.

(a) All appointments will be scheduled in advance using the procedures and software specified by the Board to communicate with the Board's system and designated vendor.

(b) The broker, dealer or municipal securities dealer and its proctor will conduct each session in accordance with the administrative appointment scheduling procedures established by the Board or its designated vendor.

(c) A sign-in log will be maintained at the delivery facility. Logs will contain the date of each session, the name and social security number of the individual taking the session, the fact that required identification was checked, the sign-in time, the sign-out time, and the name of the individual proctoring the session. Such logs are required to be retained pursuant to rules G–8 and G–9.

(d) No material will be permitted to be utilized for the session nor may any session-related material be removed.

(e) Delivery sites will be made available for inspection by the appropriate enforcement authority.

(f) Before commencing the in-firm delivery of the Regulatory Element continuing education, brokers, dealers and municipal securities dealers are required to file with the Board a letter of attestation (as specified below) signed by a municipal securities principal or general securities principal attesting to the establishment of required procedures addressing principal in-charge, supervision, site, technology, proctors, and administrative requirements. Letters filed with the Board should be sent to the Municipal Securities Rulemaking Board, Professional Qualifications Department, 1900 Duke Street, Suite 600, Alexandria, Virginia, 22314.

Letter of Attestation for In-Firm Delivery of Regulatory Element Continuing Education

{Name of broker, dealer or municipal securities dealer} has established procedures for delivering Regulatory Element continuing education on its premises. I have determined that these procedures are reasonably designed to comply with SRO requirements pertaining to in-firm delivery of Regulatory Element continuing education, including that such procedures have been implemented to comply with principal in-charge, supervision, site, technology, proctors, and administrative requirements.

_____

Signature

_____

Printed name

_____

Title (Must be signed by a municipal securities principal or general securities principal of the broker, dealer or municipal securities dealer)

_____

Date

Rule G–8. Books and Records To Be Made by Brokers, Dealers and Municipal Securities Dealers

(a) Description of Books and Records Required to be Made. Except as otherwise specifically indicated in this rule, every broker, dealer and municipal securities dealer shall make and keep current the following books and records, to the extent applicable to the business of such broker, dealer or municipal securities dealer:

(i)–(xx) No change.

(xxi) Records Concerning Sign-In Logs for In-Firm Delivery of the Regulatory Element Continuing Education. If applicable, each broker, dealer and municipal securities dealer shall maintain the records required by rule G–3(h)(i)(G)(6)(c).

(b)–(e) No change.

(f) Compliance with Rule 17a–3. Brokers, dealers and municipal securities dealers other than bank dealers which are in compliance with rule 17a–3 of the Commission will be deemed to be in compliance with the requirements of this rule, provided that the information required by subparagraph (a)(iv)(D) of this rule as it relates to uncompleted transactions involving customers; paragraph (a)(viii); and paragraphs (a)(xi) through [(a)(xx)] *(a)(xxi)* shall in any event be maintained.

Rule G–9. Preservation of Records

(a) No change.

(b) Records to be Preserved for Three Years. Every broker, dealer and municipal securities dealer shall preserve the following records for a period of not less than three years:

(i) through (xi) No change.

(xii) the authorization required by rule G–8(a)(xix)(B); however, this provision shall not require maintenance of copies of negotiable instruments signed by customers [and]

(xiii) each advertisement from the date of each use [.]*;*

(xiv) the records to be maintained pursuant to rule G–8(a)(xx); *and (x)(v) the records to be maintained pursuant to rule G–8(a)(xxi).*

G–27. Supervision

(a) No change.

(b) Designation of principals.

(i) through (ii) No change.

(iii) Appropriate principal. Each dealer shall designate a municipal securities principal as responsible for its supervision under sections (a) and (c) of this rule, except as provided in this section. A non-bank dealer shall designate a financial and operations principal as responsible for the financial reporting duties specified in rule G–3(d)(i)(A–E) and with primary responsibility for books and records under section (c)(v) below; provided however, that a non-bank dealer meeting the requirements of Securities Exchange Act rule 15c3–1(a)(2)(iv), (v) or (vi) or the exemption under rule 15c3–1(b)(3) may, but is not required to, designate a financial and operations principal as responsible for such financial reporting duties and with primary responsibility for such books and records. In addition, a municipal securities sales principal may be designated as responsible for supervision under section (c)(ii),(iii) and (vii) of this rule, to the extent the activities pertain to sales to or purchases from a customer; a general securities principal may be designated as responsible for supervision under sections (c)(v) and (vii)(A) of this rule and under rules *G–3(h)(i)(G)(1),* G–7(b) and G–21(e); and a financial and operations principal may be designated as responsible for supervision under section (c)(vi) of this rule.

(c) through (e) No change.

II. Self-Regulatory Organization's Statement of the purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board 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 texts of these

statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections (A), (B), and (C) below, for the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Regulatory Element is a three and one-half hour computer-based training program that previously had only been administered to registered persons at the location of an outside vendor. Rule G–3(h)(i)(A)(1) requires that each registered person, who is not exempt from the rule, complete the Regulatory Element on the occurrence of his or her second registration anniversary and every three years thereafter. On each occasion, the training must be completed within 120 days after the registered person's anniversary date. A registered person who has not completed the Regulatory Element within the prescribed time periods is deemed to be inactive until the Regulatory Element has been fulfilled, and may not conduct, or be compensated for, activities requiring a securities registration.

The Securities Industry/Regulatory Council on Continuing Education (''Council'') is responsible for the oversight of the continuing education program for the securities industry. The Council's duties include recommending and helping to develop specific content and questions for the Regulatory Element, and minimum core curricula for the Firm Element. The Council is comprised of 14 representatives from a broad cross section of broker/dealers and six self-regulatory organizations, including the MSRB. The Council, working with representatives from the North American Securities Administrators Association, and with the knowledge of the Council's Securities and Exchange Commission liaisons, has developed a model under which brokers, dealers and municipal securities dealers may deliver the Regulatory Element computer-based training on firm premises. The model requires that the broker, dealer or municipal securities dealer meet certain conditions for in-firm delivery relating to computer hardware and to the security of the training delivery environment. The proposed rule change encapsulates the delivery requirements as specified by the Council. Brokers, dealers and municipal securities dealers of any size may take advantage of the in-firm delivery procedures.

2. Statutory Basis

The Board believes the proposed rule change is consistent with section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (''Act''), which provides that the Board's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade * * * to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The Board believes that the proposed rule change is consistent with the Act in that it will facilitate registered persons satisfying their obligations to meet the Regulatory Element of the continuing education requirement.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, since it would apply equally to all brokers, dealers and municipal securities dealer.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested people are invited to submit written data, views, and arguments concerning the foregoing. People making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–2001–04 and should be submitted by July 19, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16256 Filed 6–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44459; File No. SR–MSRB–2001–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G–37, on Political Contributions and Prohibitions on Municipal Securities Business, and Rule G–38, on Consultants

June 20, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[1] notice is hereby given that on June 7, 2001, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–MSRB–2001–02) as described in Items, I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB has filed with the Commission a proposed rule change consisting of a notice of interpretation concerning rules G–37, on political contributions and prohibitions on

[2] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4.

municipal securities business, and G–38, on consultants. The text of the proposed rule change is set forth below. The new text is italicized and underlined.

Question and Answer Notice: Rules G–37 and G–38

Bank Affiliates: Individuals as Municipal Finance Professionals or Consultants

Q: In a Question and Answer Notice relating to rule G–38 dated May 20, 1998, the MSRB discussed a scenario in which a bank and its employees communicate with an issuer on behalf of an affiliated broker, dealer or municipal securities dealer (a ''dealer'') to obtain municipal securities business for that dealer in return for certain ''credits.'' These credits, which do not involve any direct or indirect cash payments from the dealer to the bank or its employees, are used for internal purposes to identify the source of business referrals. The MSRB observed that, even if there is no immediate transfer of funds or anything of value to an affiliate or individual employed by the affiliate, the referral credits would still be considered payment for purposes of rule G–38 if such credits eventually (e.g., at the end of the fiscal year) result in compensation to the affiliate or individual employed by the affiliate for referring municipal securities business to the dealer. The MSRB concluded that if the dealer or any other person eventually gives anything of value (e.g., makes a ''payment'') to the affiliate or individual based, even in part, on the referral, then the affiliate or individual is a consultant for purposes of rule G–38. Does this mean that in all cases where a bank's employee refers municipal securities business to an affiliated dealer, such bank employee is necessarily a consultant under rule G–38 rather than a municipal finance professional of the dealer under rule G–37?

A: No. The purpose of the Question and Answer Notice was to illustrate that the term ''payment'' as used in rule G–38 is not limited to cash payments but also includes anything of value, such as referral credits, that ultimately results in cash or non-cash compensation to the bank employee. The MSRB was not providing guidance as to whether such bank employee should be considered a consultant rather than a municipal finance professional of the dealer. As the MSRB noted in footnote 1 to the Question and Answer Notice, municipal finance professionals are excluded from the definition of consultant. If a dealer has an arrangement whereby referral credits are give to an employee of a bank affiliate in exchange for a referral of municipal securities business, the dealer should first determine whether the bank employee is a municipal finance professional of the dealer. As a threshold question, the dealer must determine whether such bank employee is a person associated with the dealer within the meaning of the Securities Exchange Act of 1934, as amended the ''Exchange Act'').[2] If the bank employee is an associated person of the dealer and has solicited municipal securities business on behalf of the dealer, the employee would be a municipal finance professional of the dealer subject to the provisions of rule G–37, regardless of whether such employee has received a referral credit or any other payment.[3] Such employee, as a municipal finance professional of the dealer, is excluded from being a consultant of the dealer under rule G–38. If the bank employee is not an associated person of the dealer and has received such referral credits as a result of a solicitation of municipal securities business for the dealer, the employee would be a consultant of the dealer subject to the provisions of rule G–38.

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 MSRB 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 texts of these statements may be examined at the places specified in Item IV below. The MSRB 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

(a) Since adoption of rules G–37 and G–38, the MSRB has received numerous inquiries concerning the application of these rules. In order to assist the municipal securities industry in understanding and complying with the provisions of the rules, the MSRB has published a series of interpretive notices, which set forth, in question-and-answer format, general guidance on rules G–37 and G–38.

On May 20, 1998, the Commission approved an interpretive notice of the MSRB relating to rule G–38.[4] This question-and-answer notice provided guidance regarding the meaning of the term payment under rule G–38 in the context of the granting of referral credits to an employee of a bank in exchange for the referral of municipal securities business to a dealer affiliated with the bank. The MSRB made clear that, even if there is not immediate transfer of funds or anything of value to an affiliate of a dealer or an individual employed by such affiliate, the referral credits would still be considered payment for purposes of rule G–38 if the credits eventually result in compensation to the affiliate or individual for referring municipal securities business to the dealer.

The MSRB recently has learned that some members of the municipal securities industry may have misunderstood the guidance provided by this prior question-and-answer notice. Some industry participants appear to believe that the MSRB has determined that an employee of a bank that refers municipal securities business to a dealer affiliated with such bank would necessarily be considered a consultant of the dealer under rule G–38 rather than a municipal finance professional of the dealer under rule G–37. This was not the intent of the prior interpretation, which focused solely on whether referral credits could be considered payment for purposes of rule G–38. The interpretation did not seek to analyze the further factors that must be considered in determining whether an individual should be considered a municipal finance professional or a consultant. As a result, the MSRB has determined that it is necessary to provide clarification of the prior question-and-answer notice and to provide further guidance on the factors to be considered in determining whether an employee of an affiliate of a dealer that makes a referral of municipal securities business to the dealer is a consultant under rule G–38 or a municipal finance professional under rule G–37.

(b) The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which requires that the MSRB's rules.

> be 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act in that it provides guidance to dealers in complying with existing MSRB rules.

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[2] *Questions regarding the scope of the term ''person associated with a broker or dealer'' under Section 3(a)(18) of the Exchange Act or ''person associated with a municipal securities dealer'' under Section 3(a)(32) of the Exchange Act should be addressed to staff of the Securities and Exchange Commission.*

[3] *The definition of municipal finance professional in rule G–37 is not dependent upon whether the associated person has received payment in exchange for the solicitation of municipal securities business.*

[4] Securities Exchange Act Release No. 40014 (May 20, 1998), 63 FR 29282 (May 28, 1998).

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The MSRB has designated this proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing MSRB rule under section 19(b)(3)(A)(i) of the Act,[5] and subparagraph (f) of Rule 19b–4, thereunder.[6] At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate this 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.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., 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 the filing will also be available for inspection and copying at the MSRB's principal offices. All submissions should refer to File No. SR–MSRB–2001–02 and should be submitted by July 19, 2001.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16257 Filed 6–27–01; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78s(b)(3)(A)(i).

[6] 17 C.F.R. 240.19b–4(f).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44465; File No. SR–NYSE–2001–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Amending NYSE Rules 104 and 1100 Relating to Trading of ETFs

June 22, 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 June 15, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this 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 proposed rule change consists of an amendment to NYSE Rule 104 to facilitate trading in Exchange Traded Funds (''ETFs''), and amendments to Rule 1100 to clarify that rules relating to Investment Company Units apply to such securities traded on the basis of unlisted trading privileges (''UTP''), and to authorize the Exchange to close trading in an ETF at 4:05 p.m. when trading in a related futures contract has closed at that time on the last trading day of the month. Text of the proposed rule change follows. Additions are italicized; deletions are bracketed.

Dealings by Specialists

Rule 104

No specialist shall effect on the Exchange purchases or sales of any security in which such specialist is registered, for any account in which he, his member organization or any other member, allied member, or approved person, (unless an exemption with respect to such approved person is in effect pursuant to Rule 98) in such organization or officer or employee thereof is directly or indirectly interested, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market, or to act as odd-lot dealer in such security.

.10 Regular Specialists

* * * * *

(7) The requirement to obtain Floor Official approval for transactions for a specialist's own account contained in subparagraphs (5)(i)(A), (B) and (6)(i)(A) above shall not apply to transactions effected for the purpose of bringing the price of an investment company unit (the ''unit''), as that term is defined in Section 703.16 of the Listed Company Manual, into parity with the value of the index on which the unit is based, [or] with the net asset value of the securities comprising the unit[.]*, or with a futures contract on the value of the index on which the unit is based.* Nevertheless such transactions must be effected in a manner that is consistent with the maintenance of a fair and orderly market and with the other requirements of this rule and the supplementary material herein.

Rule 1100

Scope

(a) The provisions of this Rule 1100 apply only to ''Investment Company Units'', as defined and used in Para. 703.16 of the Listed Company Manual. *This term shall also mean and apply to securities which fit within said definition but are admitted to dealings by the Exchange on an unlisted trading privileges basis.* Except to the extent that specific provisions in this Rule govern, or unless the context otherwise requires, the provisions of the Constitution, all other Exchange Rules and policies shall be applicable to the trading of Investment Company Units on the Exchange. Pursuant to Exchange Rule 3 (''Security''), Investment Company Units are included within the definition of ''security'' or ''securities'' as those terms are used in the Constitution and Rules of the Exchange.

* * * * *

Hours of Trading

(e) Any series of Investment Company Units so designated by the Exchange may be traded on the Exchange until 4:15 p.m. each business day. *The Exchange may close trading at an early time to coincide with the close of trading in a related futures contract on the last business day of the month, or any other day when trading in a related futures contract closes earlier than 4:15 p.m.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange plans to begin trading certain ETFs on the Exchange pursuant to UTP on July 19, 2001. These ETFs are the NASDAQ 100 Trust (symbol QQQ), Standard and Poor's Depositary Receipts (symbol SPY) and the Dow Industrials DIAMONDS (symbol DIA). ETFs are securities, which are Investment Company Units as defined in Section 703.16 of the Exchange's Listed Company Manual. The Exchange proposes to amend NYSE Rule 1100(a) to clarify that NYSE rules applying to Investment Company Units also apply to securities fitting that definition that are traded on the Exchange on the basis of UTP.

NYSE Rule 104 governs specialists' dealings in their specialty stocks. NYSE Rule 104.10 requires specialists to obtain Floor Official approval when purchasing on a direct plus tick or selling on a direct minus tick, or when purchasing on a zero plus tick more than 50% of the stock offered. These transactions are seen as destabilizing, and may be effected by the specialist only with Floor Official approval. NYSE Rule 104.10(7) was amended several years ago to permit a specialist registered in an Investment Company Unit to effect proprietary destabilizing trades without Floor Official approval to bring the security into parity with the value of the index on which the unit is based or with the net asset value of the securities comprising the unit. The purpose of that amendment was to permit a specialist registered in a ''country basket'' to act expeditiously to bring the basket into parity with the value of the securities comprising the basket.[3]

As noted above, ETFs are within the meaning of the term Investment Company Units, and thus an ETF specialist is permitted under Rule 104.10(7) to effect proprietary destabilizing trades without Floor Official approval to bring the ETF into parity with the underlying index or the value of the securities comprising the ETF. In certain situations, however, market participants may seek to ''trade through'' these parity values to bring the ETF into parity with a futures contract on the index on which the ETF is based. The Exchange believes it would be appropriate to permit an ETF specialist to effect proprietary destabilizing transactions without Floor Official approval as appropriate in this situation. Such transactions remain subject to the requirement that they be effected in a manner that is consistent with the maintenance of a fair and orderly market.

The Exchange understands that futures trading in stock index products on the Chicago Mercantile Exchange closes at 4:05 p.m. (Eastern time) on the last business day of each month. The Exchange understands that trading in related ETFs on other market centers closes at such time on such days as well. Accordingly, the Exchange proposes to close trading in an ETF at the same time that trading in a related futures contract closes on the last business day of the month.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5)[4] of the Act, which requires among other things, that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with these objectives because it fosters efficient market making in ETF securities.

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 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 neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–15 and should be submitted by July 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16258 Filed 6–27–01; 8:45 am]

BILLING CODE 8010–01–M

[3] See Securities Exchange Act Release No. 37016 (March 22, 1996), 61 FR 14185 (March 29, 1996) approving filing SR–NYSE–96–04.

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44468; File No. SR–PCX–00–03]

Self-Regulatory Organizations; Order Approving Proposing Rule Change, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change, by the Pacific Exchange, Inc. Implementing a One-Year Pilot Program Relating to Its Automatic Execution System

June 22, 2001.

I. Introduction and Description of the Proposed Rule Change

On February 15, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') file with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to implement a one-year pilot program relating to its automatic execution system.

The Exchange proposes to amend its rules to allow, for the duration of the pilot program, automatic executions of orders in its Limit Order Book (''Book'') when those orders become marketable. Specifically, when one or more orders in the Book become marketable, as indicated by a locked or crossed market being displayed on the trading floor, the Lead Market Maker (''LMM'') may direct the Order Book Official to initiate the ''Auto-Ex Book'' function, which will cause marketable orders in the Book to be automatically executed against the accounts of market makers who are participating in the Exchange's Auto-Ex system at the time.[3]

Notice of the proposed rule change was published for comment in the **Federal Register** on May 7, 2001.[4] No comments were received on the proposed rule change. On June 21, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.[5] This order approves the proposed rule change. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change and is simultaneously approving Amendment No. 1 on an accelerated basis.

II. Discussion

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.[6] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[7] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The proposed rule change should help to facilitate the more efficient execution of orders; eliminate inefficiencies associated with manual trading; eliminate backlogs of unexecuted orders; promoted fair participation in trading against orders in the Book, and in general market efficiency on the PCX. Moreover, the Exchange is proposing to implement the Auto-Ex Book function as a one-year pilot program, which will enable the Exchange and the Commission to evaluate its operation before it can be renewed.

The Commission further finds good cause to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register.** In Amendment No. 1, the Exchange simply re-numbered and re-lettered certain paragraphs of rule text, and made no substantive changes to the proposal. Therefore, the Commission finds good cause to approve Amendment No. 1 on an accelerated basis.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1, including whether Amendment No. 1 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–00–03 and should be submitted by July 19, 2001.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–PCX–00–03) be, and it hereby is, approved as a pilot program through June 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16259 Filed 6–28–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Alternatively, however, the LMM or members of the trading crowd may provide price improvement to the customer orders in the book. In such case, the Auto-Ex Book feature would not be used.

[4] *See* Securities Exchange Act Release No. 44234 (April 30, 2001), 66 FR 23059 (May 7, 2001).

[5] In Amendment No. 1, the Exchange made certain changes to the numbering and lettering of the proposed rules. The Amendment did not make any changes to the substance of the proposal. *See* Letter from Michael D. Pierson, Vice President, Regulatory Policy, PCX, to Andrew Shipe, Attorney, Division of Market Regulation, dated June 20, 2001.

[6] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3341]

State of Minnesota; Amendment #3

In accordance with a notice received from the Federal Emergency Management Agency, dated June 19, 2001, the above-numbered Declaration is hereby amended to reopen the incident period for this disaster as beginning on March 23, 2001 and continuing.

All other information remains the same, i.e., the deadline for filing applications for physical damage is July 15, 2001 and for economic injury the deadline is February 15, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 21, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–16283 Filed 6–27–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3339]

State of Wisconsin; Amendment #3

In accordance with a notice received from the Federal Emergency Management Agency, dated June 21, 2001, the above-numbered Declaration is hereby amended to include tornadoes as the incident type and to reopen the incident period for this disaster as beginning on April 10, 2001, and continuing.

All other information remains the same, i.e., the deadline for filing applications for physical damage is July 10, 2001 and for economic injury the deadline is February 11, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 21, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–16282 Filed 6–27–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503.

(SSA), Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. *Electronic Death Registration Survey—0960–0625.* Section 205(r) requires the Social Security Administration (SSA) to enter into agreements with States to obtain death records. Sections 202(a)(1)–(h)(1) require SSA to terminate Retirement, Survivors and Disability benefits upon the death of the beneficiary. This survey will measure the States' readiness to implement electronic death registration processes, which will result in SSA getting death information more timely and accurately to terminate benefits as required by law. The respondents are State Vital Records Directors.

Number of Respondents: 55.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 28 hours.

2. *Statement of Agricultural Employer* (Years prior to 1988); *Statement of Agricultural Employer* (1988 and Later)—0960–0036. The information on Forms SSA–1002 and SSA–1003 is used by the Social Security Administration (SSA) to resolve discrepancies when farm workers have alleged that their employers did not report their wages or reported them incorrectly. The respondents are agricultural employers.

	SSA–1002	SSA–1003
Number of Respondents	75,000	50,000
Frequency of Response	1	1
Average Burden Per Response	10 minutes	30 minutes.
Estimated Annual Burden	12,500 hrs	25,000 hrs.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. *Disability Hearing Officer's Report of Disability Hearing*—0960–0440. The information on Form SSA–1205–BK is used by the Disability Hearing Officers (DHOs) at the Social Security Administration (SSA) as a guide to conducting and recording disability hearings. It ensures that all of the pertinent issues are considered. The respondents are DHOs in the State Disability Determination Services and Federal DHOs.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 100,000.

2. *Application For Benefits Under The Italy-U.S. International Social Security Agreement*—0960–0445. The information collected on Form SSA–2528 is required by SSA in order to determine entitlement to benefits. The respondents are applicants for old-age, survivors or disability benefits, who reside in Italy.

Number of Respondents: 200.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 67 hours.

3. *Request for Claimant Conference*—0960–0608. The information collected on form SSA–378 is used by the Disability Adjudicator to complete processing of a claimant's disability claim. Depending on the response, the Disability Adjudicator schedules/conducts the Claimant Conference, awaits the receipt of additional evidence, requests additional evidence from the source, or finalizes the determination on the case. The respondents are applicants for Social Security disability and Supplemental Security Income benefits whose initial determination of disability will be less than fully favorable.

Number of Respondents: 210,500.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 10,525 hours.

4. *Disability Hearing Officer's Report of Disability Hearing* (DC)—0960–0507.

The information collected on form SSA–1204–BK is used by the Disability Hearing Officer (DHO) to conduct and document disability hearings, and to provide a structured format that concerns all conceivable issues relating to SSI claims for disabled children. The completed form SSA–1204–BK will aid the DHO in preparing the disability decision and will provide a record of what transpired at the hearing. The respondents are DHO's in the State Disability Determination Services.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 100,000 hours.

Dated: June 21, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer.

[FR Doc. 01–16194 Filed 6–27–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Section 5a Application No. 1 (Amendment No. 11)]

Household Goods Carriers' Bureau Committee

By application filed on March 5, 2001, the Household Goods Carriers' Bureau Committee (HGCBC) seeks approval of minor amendments to its collective ratemaking agreement.[1] HGCBC is part of the American Moving & Storage Association (AMSA), but HGCBC's regulated activities are conducted autonomously of AMSA. HGCBC proposes to modify Article 3 of its agreement, to provide for: (1) A procedure whereby HGCBC's Board could revoke the membership of HGCBC carriers, and their participation in bureau tariffs, pursuant to Article IV, Section 9, of the bylaws of AMSA (which allows termination of AMSA membership for violation of its bylaws or its Certified Mover and Van Line Program Code of Conduct, or for engaging in any other conduct that is prejudicial to the interests of AMSA); (2) automatic removal of a carrier's membership if the carrier's operating authority is revoked by the federal government; and (3) non-substantive changes in the wording and the enumeration of sections of Article 3.

An original and 10 copies of any comments, referring to STB Section 5a Application No. 1 (Amendment No. 11), must be sent to: Surface Transportation Board, Office of the Secretary, Case Control Unit, Attn: STB Section 5a Application No. 1 (Amendment No. 11), 1925 K Street, NW., Washington, DC 20423–0001. One copy of any comments filed with the Board must also be served on applicant's representative: Thomas M. Auchincloss, Jr., Rea, Cross & Auchincloss, 1707 L Street, NW., Washington, DC 20036.

To allow members of the public to obtain a copy of the application without traveling to the Board's office, HGCBC is required to provide a copy on request.

Comments must be filed with the Surface Transportation Board by July 30, 2001. HGCBC's reply to any comments is due by August 27, 2001.

For more information, contact: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.'' See our served decision approving the application pending analysis of any comments.

Decided: June 21, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–16148 Filed 6–27–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34055 (Sub–No. 1)]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

AGENCY: Surface Transportation Board DOT.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts the trackage rights described in STB Finance Docket No. 34055 [1] to permit the trackage rights to expire on June 22, 2001, in accordance with the agreement of the parties.

DATES: This exemption is effective on June 22, 2001.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 34055 (Sub-No. 1) must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioner's representative (1) Robert T. Opal, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179, and (2) Yolanda Grimes Brown, The Burlington Northern and Santa Fe Railway Company, 3017 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161–0039.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā-To-Dā Office Solutions, Room 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1–800–877–8339.]

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 21, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–16145 Filed 6–27–01; 8:45 am]

BILLING CODE 4915–00–P

[1] HGCBC's agreement was last modified under former 49 U.S.C. 10706(b), the predecessor to 49 U.S.C. 13703, in *Household Goods Carriers' Bureau Agreement,* Section 5a Application No. 1 (Amendment No. 9) (ICC served July 7, 1993). HGCBC applied for renewal of its agreement in *Household Goods Carriers' Bureau Agreement,* Section 5a Application No. 1 (Amendment No. 10), which is pending before the Board.

[1] On June 6, 2001, the Union Pacific Railroad Company (UP) filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by BNSF to grant temporary overhead trackage rights to UP over 175 miles of BNSF's rail line as follows: (1) Between Shawnee Jct., WY, BNSF milepost 117.1, and Bridger Jct., WY, BNSF milepost 127.3 (Orin Subdivision); (2) between Bridger Jct., BNSF milepost 133.2, and East Guernsey, WY, BNSF milepost 91.7 (Canyon Subdivision); (3) between East Guernsey, BNSF milepost 91.7, and Northport, NE, BNSF milepost 0.0 (Valley Subdivision); and (4) between Northport, BNSF milepost 33.8, and Sidney, NE, BNSF milepost 75.4 (Angora Subdivision). *See Union Pacific Railroad Company-Trackage Rights Exemption-The Burlington Northern and Santa Fe Railway Company,* STB Finance Docket No. 34055 (STB served June 18, 2001). The trackage rights agreement is scheduled to expire June 22, 2001. The trackage rights operations under the exemption became effective and were scheduled to be consummated on June 13, 2001.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration (FAA)

Notice of Availability of Final Supplemental Environmental Impact Statement (SEIS), and Notice of Public Comment Period for Master Plan Development [Midfield Terminal Complex] at Indianapolis International Airport Located in Indianapolis, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability, notice of comment period.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that a Final Supplement to the 1992 Final Environmental Impact Statement (SEIS)—Master Plan Development, Indianapolis International Airport, has been prepared and is available for public review and comment. Written requests for the Final SEIS and written comments on the Final SEIS can be submitted to the individual listed in the section **FOR FURTHER INFORMATION, CONTACT**. The public comment period will commence on June 22, 2001 and will close on July 30, 2001.

Public Comment: The start of the public comment period on the Final SEIS will be June 22, 2001 and will end on July 30, 2001 (which includes the Council on Environmental Quality's required 30 day holding period from June 29, 2001 to July 30, 2001 before a decision can be made).

Copies of the Final SEIS may be viewed during regular business hours at the following locations:

1. Indianapolis Airport Authority, South High School Road, Indianapolis International Airport, Indianapolis, Indiana 46241.

2. Chicago Airports District Office, Room 312, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

3. Marion County Public Library, 40 East St. Clair, Indianapolis, Indiana 46204.

4. Wayne Township Branch Library, 198 South Girls School Road, Indianapolis, Indiana 46214.

5. Decatur Township Branch Library, 5301 Kentucky Avenue, Indianapolis, Indiana 46241.

6. Plainfield Public Library, 1120 Stafford Road, Plainfield, Indiana 46208.

7. Mooresville Public Library, 220 W. Harrison Street, Mooresville, Indiana 46158.

FOR FURTHER INFORMATION CONTACT: Prescott C. Snyder, Airports Environmental Program Manager, Federal Aviation Administration, Chicago Airports District Office, Room 312, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Mr. Snyder can be contacted at (847) 294–7538 (voice), (847) 294–7046 (facsimile) or by E-Mail at prescott.snyder@faa.gov.

SUPPLEMENTARY INFORMATION: In November 2000, the Indianapolis Airport Authority (IAA) announced its intention to construct a midfield terminal complex and associated development at Indianapolis International Airport. This was previously evaluated in a 1992 Final Environmental Impact Statement (FEIS) for Master Plan Development. While the majority of the development elements assessed in the 1992 FEIS have been completed, the midfield terminal complex and associated developments have been constructed. However, there have been a number of steps taken towards the development of the midfield terminal complex and associated developments. FAA determined that it was appropriate for FAA to prepare a Supplemental to the 1992 Final Environmental Impact Statement (FEIS) because the IAA's proposed development contains some modifications from the same development elements proposed and assessed in the 1992 FEIS. This SEIS is being prepared in accordance with requirements of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4332(2)(C).

The Proposed Project consists of a new midfield terminal complex and associated development (relocation of Airport Traffic Control Tower, development of midfield terminal interchange, and construction of cross-field taxiways). It is anticipated that the existing terminal will be closed and demolished. The design for the midfield interchange has been finalized and disclosed as part of the 1995 Federal Highway Administration Draft Environmental Assessment (EA) for Six Points Road Interchange. The SEIS assess the environmental impacts associated with the construction of the midfield interchange at the location provided in the 1995 FHWA EA. Service roads and interior circulation roadways were not specifically defined in the 1992 FEIS as well. This SEIS provides the environmental evaluation of the location of the airfield service and interior circulation roadways.

Comments from interested parties on the Final SEIS are encouraged and may be submitted in writing to the FAA at the address listed in section entitled **FOR FURTHER INFORMATION CONTACT.** The comment period will close on July 30, 2001. Late comments will be accommodated to the extent possible, depending on the time received during the environmental review process.

Issued in Des Plaines, Illinois on June 21, 2001.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 01–16315 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for a Proposed New Runway at Norfolk International Airport, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to prepare and consider an environmental impact statement and to conduct agency and public scoping meetings.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for a proposed new runway at Norfolk International Airport, Virginia. In addition, to ensure that all major project-related issues are identified, agency scoping and public scoping meetings will be held. The Bureau of Utilities for the City of Norfolk, the Norfolk District of the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency Region III will be cooperating agencies on the EIS. Scoping meetings will be held to determine the scope of the EIS and to identify the major project-related issues to be addressed and emphasized in the EIS. The FAA hereby invites the participation of Federal, State and local agencies, any affected Indian tribe, the proponent of the action, and any other interested parties. Two scoping meetings are planned—the first is an agency scoping meeting intended for organizations having jurisdiction by law or specific expertise with respect to any environmental impacts associated with the action; the second is a public meeting intended for other interested parties, including those who may not be in accord with the action on environmental grounds. However, both meetings are open to the public.

The FAA further invites agencies, organizations, and the general public to

provide written comments relative to the action and the issues to be addressed in the EIS. Scoping comments should clearly describe specific issues or topics that the commentator believes the EIS should address.

ADDRESSES: Written comments and requests to be included on a mailing list of persons interested in the EIS should be sent to Daisy Mather, Environmental Team Leader, Federal Aviation Administration Eastern Region, Airports Division AEA–610, 1 Aviation Plaza, Jamaica, New York 11434.

DATES: The scoping meetings are scheduled for August 2, 2001. The agency scoping meeting is scheduled to begin at 9 a.m. in the Norfolk Airport Authority Conference Room at the Airport, while the public scoping meeting is scheduled to begin at 3 p.m. at the Norfolk Airport Hilton Hotel at 1500 North Military Highway, Norfolk, Virginia. Attendees may submit comments at the meetings, and written comments received by and postmarked by August 17, 2001 will be accepted for further consideration in the EIS process. Written comments should be sent to the address specified above.

FOR FURTHER INFORMATION CONTACT: Daisy Mather, Environmental Team Leader, Airports Division AEA–610, Federal Aviation Administration Eastern Region, 1 Aviation Plaza, Jamaica, New York 11434; Telephone (718) 553–2511; email: daisy.mather@faa.gov.

SUPPLEMENTARY INFORMATION: The Norfolk Airport Authority has completed a master plan update for future development projects at Norfolk International Airport, including construction of a new Runway 5R–23L. The proposed new runway project involves numerous airside improvements, including, but not limited to the following: runway and taxiway construction, taxiway relocation, runway safety area construction, new airfield lighting, improvements to existing lighting, relocation of the Very High Frequency Omni-directional Range/Tactical Air Navigation (VORTAC) facility, installation of a Medium Intensity Approach Lighting System with Runway Alignment Indicator Lights (MALSR) for Runway 23L and a Category II Instrument Landing MALSR (CAT II ILS/MALSR) for Runway 5R. Because the potential exists for this proposed new runway and other projects project to create significant environmental impacts, the FAA determined that preparation of an EIS was necessary.

The Airport is located in the City of Norfolk, adjacent to the City of Virginia Beach municipal boundary and the U.S. Navy Little Creek Amphibious Base. The environmental issues of concern for evaluation in the EIS are anticipated to be noise, environmental justice, water quality, public parks and recreation areas, threatened and endangered species, biotic communities, wetlands, air quality, secondary impacts, and cumulative impacts. Other isues that will be addressed in the EIS include potential impacts to floodplains, cultural resources, utilities, and hazardous materials.

With regard to project alternatives, the EIS will include an analysis of a variety of alternatives considered during the project planning phase of the process. In addition to the proposed action and the No Action alternatives, the analysis will include individual project site locations, mitigation alternatives, and other alternatives that may arise from the scoping process.

Issued on June 22, 2001 in Jamaica, New York.

Thomas Felix,

Manager, Planning and Programming Branch, Airports Division, Eastern Region.

[FR Doc. 01–16316 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–47]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on June 25, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9463.
Petioner: Fare Share, Ltd.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit FSL to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 06/12/ 2001, Exemption No, 7542.*

Docket No.: FAA–2001–9442.
Petitioner: Schroeder Sales, Inc., dba Greenwood Aviation.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Greenwood Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 06/12/2001, Exemption No. 7541.*

Docket No.: FAA–2001–9547.
Petitioner: Century Aviation.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Century Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 06/12/2001, Exemption No. 7543.*

Docket No.: FAA–2001–9772.
Petitioner: Leading Edge Aviation Services, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit LEASI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 06/12/ 2001, Exemption No. 7545.*

Docket No.: FAA–2201–9445.
Petitioner: Aurora Aviation.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Aurora Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 06/12/2001, Exemption No. 7544.*

Docket No.: FAA–2001–9687 (previously Docket No. 30098).

Petitioner: Pacific Helicopter Tours, Inc.

Section of 14 CFR Affected: 14 CFR 135.152(a).

Description of Relief Sought/ Disposition: To allow PHI to operate its two Bell 212 helicopters (Serial Nos. 30951, and 30957) and its Sikorsky $61N helicopter (Serial No. 61821, Registration No. N264F) without those helicopters being equipped with an approved digital flight data recorder. *Grant, 06/13/2001, Exemption No. 7257A.*

Docket No.: FAA–2000–8860.

Petitioner: Franklin Products, Inc.

Section of 14 CFR Affected: 14 CFR 25.853(a).

Description of Relief Sought/ Disposition: To provide Franklin Products with relief from the vertical burn test requirements for seat cushion assemblies constructed with non-compliant water-based adhesives. *Partial Grant,* 05/02/2001, Exemption No. 6634B.

Docket No.: FAA–2000–8580.

Petitioner: Fairchild Dornier GmbH.

Section of 14 CFR Affected: 14 CFR 25.562(b)(2).

Description of Relief Sought/ Disposition: To permit Fairchild to obtain type certification of its Model 728–100 airplane without meeting the floor warpage testing requirements for crew and passenger seats. *Grant, 06/04/ 2001, Exemption No. 7540.*

Docket No.: FAA–2001–9369 (previously Docket No. 26732)

Petitioner: United Stated Customs Service

Section of 14 CFR Affected: 14 CFR 91.117(a), (b), and (c), 91.119(c), 91.159(a), and 91.209(a) and (d).

Description of Relief Sought/ Disposition: To permit USCS to conduct drug interdiction air support. *Grant, 06/ 05/2001, Exemption No. 5504C.*

[FR Doc. 01–16313 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–46]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 19, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on June 25, 2001.

Michael Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2001–8723.

Petitioner: Astral Aviation, Inc. dba Skyway Airlines, The Midwest Express Connection.

Section of 14 CFR Affected: 14 CFR 119.21(a)(3).

Description of Relief Sought: To permit Skyway to conduct supplemental operations under domestic operating rules, within the territory of the United States and within certain limits outside the United States.

[FR Doc. 01–16314 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Marion County, West Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that it is revising the original notice of intent published in the **Federal Register** on August 3, 1994. The original notice stated that an environmental impact statement (EIS) would be prepared for a proposed new expressway in Fairmont, West Virginia (Riverside Expressway). The proposed project was to include an interchange with Interstate 79, crossing either the Monongahela River or the Tygart Valley and West fork Rivers, utilizing an existing railroad right-of-way, ending at U.S. 19 south of Rivesville, West Virginia. After significant public involvement and analysis of potential project impacts and costs, the scope of the project has been redefined and the project termini altered. The redefined project, referred to locally as the Fairmont Gateway Connector, is being developed with environmental assessment in lieu of an EIS.

FOR FURTHER INFORMATION CONTACT: Henry E. Compton, Division of Environmental Coordinator, Federal Highway Administration, West Virginia Division, Geary Plaza, Suite 200, 700 Washington Street East, Charleston, West Virginia, 25301, Telephone (304) 347–5268.

SUPPLEMENTARY INFORMATION: In lieu of preparation of an environmental impact statement for the Riverside Expressway Project, the FHWA, in cooperation with the West Virginia Division of Highways (WVDOH), will prepare an environmental assessment for the proposed Fairmont Gateway Connector Project. The project is proposed to relieve traffic congestion, improve access to downtown Fairmont, increase safety, stimulate economic development and provide direct access to Interstate 79. The western terminus of the study area is the west end of the Jefferson Street Bridge. The eastern terminus is Interstate 79. Alternates under

consideration include (1) taking no action; (2) improving the existing highway system through the construction of a five lane, controlled access facility and interstate interchange. Build alternatives vary in length from 1.4 to 1.7 miles.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have expressed or are known to have an interest in this proposal. A public hearing will be held in Fairmont following approval of the environmental assessment. Public notice will be given of the time and place of the meeting. An environmental assessment will be available for public and agency review and comment prior to the public meeting.

To ensure the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited. Comments or questions concerning this proposed action or the modification of environmental document type should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 22, 2001.

Henry E. Compton,

Environmental Coordinator, Charleston, West Virginia.

[FR Doc. 01–16276 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Williamson County, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in the City of Franklin in Williamson County Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. Mark A. Doctor, Field Operations Team Leader, Federal Highway Administration, 640 Grassmere Park, Suite 112, Nashville, Tennessee 37211, Telephone: (615) 781–5788

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Tennessee Department of Transportation, will prepare an Environmental Impact Statement (EIS) on a proposal to extend State Route 397 (Mack Hatcher Parkway) in the City of Franklin in Williamson County, Tennessee. The proposed project will extend the existing Mack Hatcher Parkway circumferentially around the westside of the City of Franklin and will be constructed on new alignment for a distance of approximately 12.8 kilometers (8.0 miles). The extension will be constructed as a four lane divided, partial control of access highway.

The proposed extension of Mack Hatcher Parkway to the west is being developed as a transportation facility that will be capable of safely handling anticipated levels of future traffic growth within the study area. The proposed project is located within one of the fastest growing counties in Tennessee. This growth has placed a heavy burden on the existing transportation system and will continue to do so as projected development occurs within the study area. The completed circumferential route will help improve the overall local flow of traffic for the City of Franklin. The proposed extension will be developed to continue the geometry and operational characteristics of the existing parkway. Alternatives under consideration include (1) taking no action (no-build) (2) constructing a four-lane divided highway on new locations to complete the circumferential route and (3) other reasonable alternatives that may arise from public and agency input.

Initial coordination letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A public hearing will be held upon completion of the Draft EIS and public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. An agency scooping meeting and a public involvement meeting is planned as part of the scoping process for this project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 18, 2001.

Charles S. Boyd,

Division Administrator, Tennessee Division, Nashville, Tennessee.

[FR Doc. 01–16278 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Mohawk Adirondack & Northern Railroad, Corp.

[Docket Number FRA–2001–9487]

The Mohawk Adirondack & Northern Railroad (MHWA) seeks to add an additional locomotive, number LBR 1951, to two previously granted waiver numbers RSGM–92–4, Safety Glazing Standards and SA–92–2, Safety Appliance Standards. Waiver number RSGM–92–4 was granted for two locomotives, number LBR 1947 and LBR 1950, which were not equipped with FRA approved glazing as required in Safety Glazing Standards [49 CFR 223.11]. Waiver number SA–92–02 was granted for two locomotives, number LBR 1947 and LBR 1950, which were not equipped with switching steps as required in the Safety Appliance Standards [49 CFR 231.30].

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2001–9487) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room Pl-401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on June 21, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–16279 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2001–9972; Formerly FRA Docket No. 87–2; Notice No. 11]

RIN 2130–AB20

Automatic Train Control (ATC) and Advanced Civil Speed Enforcement System (ACSES); Northeast Corridor (NEC) Railroads

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

ACTION: Amendment to Order of Particular Applicability Requiring ACSES between New Haven, Connecticut and Boston, Massachusetts—Extended and Amended Massachusetts Bay Transit Authority (MBTA) Temporary Operating Protocols and New CSX Transportation (CSXT) Temporary Operating Protocols.

SUMMARY: FRA amends its Order of Particular Applicability requiring all trains operating on the Northeast Corridor (NEC) between New Haven, Connecticut and Boston, Massachusetts (NEC—North End) to be equipped to respond to the new Advanced Civil Speed Enforcement System (ACSES) system by setting a new compliance date for the Order. An exception previously granted to MBTA for use of unequipped and failed locomotives will be extended until February 1, 2002; and a similar exception will be extended to CSXT freight trains through September 16, 2001. This action is necessitated by delays in equipping of trains and finalization of software modifications that will support more efficient operations. The amendments also specify temporary operating protocols to minimize the impact of ACSES on MBTA and CSXT service during the initial implementation of ACSES on the NEC-North End.

DATES: The amendments to the Order are effective June 28, 2001.

FOR FURTHER INFORMATION CONTACT: W. E. Goodman, Staff Director, Signal and Train Control Division, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493–6325); Paul Weber, Railroad Safety Specialist, Signal and Train Control Division, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493–6258); or Patricia V. Sun, Office of Chief Counsel, Mail Stop 10, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493–6038).

FRA will file the July 22, 1998 Order of Applicability and its subsequent amendments (formerly Docket 87–2, Notices 7–10; respectively 63 FR 39343, July 22, 1998; 64 FR 54410, October 6, 1999; 65 FR 62795, October 19, 2000; and 66 FR 1718, January 9, 2001) in DOT's new electronic docket system. This new system allows the public access through the internet to all documents filed in a particular proceeding. Docket No. 2001–9972 may be accessed through the Department of Transportation's Docket Management System website at *http://dms.dot.gov.*

For instructions on how to use this system, visit the Docket Management System Web Site and click on the ''Help'' menu. This docket is also available for inspection or copying at room PL–401 on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001, during regular business hours.

SUPPLEMENTARY INFORMATION: The Order of Particular Applicability, as published on July 22, 1998, set performance standards for cab signal/automatic train control and ACSES systems, increased certain maximum authorized train speeds, and contained safety requirements supporting improved rail service on the NEC. 63 FR 39343. Among other requirements, the Order required all trains operating on track controlled by the National Railroad Passenger Corporation (Amtrak) between New Haven, Connecticut and Boston, Massachusetts (NEC—North End) to be controlled by locomotives equipped to respond to ACSES by October 1, 1999. In three later notices, FRA amended the Order to reset the implementation schedule and make technical changes. 64 FR 54410, October 6, 1999; 65 FR 62795, October 19, 2000; and 66 FR 1718, January 9, 2001.

MBTA and CSXT Temporary Operating Protocols

FRA is making the amendments to this Order effective upon publication instead of 30 days after the publication date in order to realize the significant safety and transportation benefits afforded by the ACSES system at the earliest possible time. All affected parties have been notified. The temporary protocols specified below will provide a safe, operationally sound transition to full ACSES implementation on MBTA and CSXT territory while minimizing the impact on MBTA and CSXT service.

FRA is not reopening the comment period since these technical changes will be effective only until February 1, 2002 for MBTA, and September 16, 2001 for CSXT. Immediate action is necessary to avoid disruption of rail service. Under these circumstances, delaying the effective date of these amendments to allow for notice and comment would be impracticable, unnecessary, and contrary to the public interest. FRA will continue to monitor the progress of MBTA and CSXT towards equipping and maintaining sufficient units to run all trains with operative ACSES and will determine later if any further relief is needed.

FRA expects MBTA and CSXT to make every effort to run ACSES-equipped trains during the period that these protocols are in effect; this additional time should be sufficient for MBTA and CSXT to complete implementation of ACSES. However, if MBTA and CSXT cannot dispatch a train equipped with ACSES, they may revert to the train control methods and maximum operating speeds in effect prior to the effective date of this Order. The more restrictive conditions will apply to all trains in the affected territory (New Haven, Connecticut to Canton Junction, Massachusetts).

Amtrak (as the contractor for commuter rail service on MBTA) must make periodic reports on MBTA's implementation process in an agreed-upon format to FRA; Amtrak and CSXT must also make such reports on CSXT's implementation process (since these reports will come from only two entities, no analysis of the paperwork burden is necessary) for the duration of

their respective periods of relief from the original terms of the order.

Amtrak and MBTA must determine the cause(s) of any equipment failure and remedy the cause as soon as practicable without delaying or disrupting rail passenger service. If necessary, determining the cause of the failure must include downloading data in the on-board memory unit and reviewing it to determine the sequence of events and the nature of the fault.

Amtrak may not cut over to ACSES implementation from Milepost 214.0, Canton Junction, Massachusetts to Milepost 228.0, Cove, Massachusetts, until the Regional Administrator for Region 1 of FRA's Office of Safety has determined that appropriate preparations have been made to support application of the Order to that territory. Operation under ACSES in this territory will require equipping of additional MBTA locomotives (including cab control cars) to avoid negative impacts on equipment availability. Amtrak and MBTA are working together to complete equipping of the MBTA fleet.

During the relief period, CSXT will test new Amtrak operational software on three CSXT ACSES-equipped locomotives. CSXT will then monitor the performance of these locomotives for mechanical and operational problems. After the software has been approved, CSXT will install it on the remaining CSXT locomotives.

Accordingly, for the reasons stated in the preamble, the Final Order of Particular Applicability published at 63 FR 39343, July 22, 1998 (Order) is amended as follows:

1. The authority for the Order continues to read as follows: 49 U.S.C. 20103, 20107, 20501–20505 (1994); and 49 CFR 1.49(f), (g), and (m).

2. *Paragraph 11 is amended as follows:*

11. *Massachusetts Bay Transit Authority (MBTA) Temporary Operating Protocols.*

(a) Effective upon June 28, 2001 until February 1, 2002, Amtrak must adhere to the following procedures if it becomes necessary to dispatch an MBTA train from its initial terminal with inoperative onboard ACSES equipment:

(1) The train dispatcher must verbally authorize the movement;

(2) The train dispatcher must issue a temporary speed restriction to limit the speed of high speed trains (Amtrak trains hauled by electric locomotives or electric power cars) to 110 miles per hour (mph) in the ACSES territory where the MBTA train with inoperative ACSES equipment will operate; and

(3) Once the MBTA train with inoperative ACSES equipment is verified to have cleared the ACSES territory, the train dispatcher may cancel the 110 mph speed restriction.

(b) The procedures set forth in subparagraph (a) of this paragraph must also be followed if it becomes necessary to dispatch an MBTA train from its initial terminal with a locomotive or control car that is not equipped with onboard ACSES equipment, if no ACSES-equipped MBTA locomotive or control car is available.

(c) Amtrak must promptly notify the regional headquarters office for Region 1 of FRA's Office of Safety of any invocations of this protocol. Included in the notification must be the date, time, and location of the incident, and the reason for invoking the protocol.

(d) Amtrak and MBTA shall determine the cause(s) of any equipment failure and remedy the cause as soon as practicable without delaying or disrupting rail passenger service.

(e) Amtrak shall make periodic reports on the implementation process in an agreed-upon format to the FRA.

(f) Amtrak shall not place ACSES in service from Milepost 214.0, Canton Junction, Massachusetts, to Milepost 228.0, Cove, Massachusetts, until it has been determined that appropriate preparations have been made to support application of the Order to that territory. This determination will be made by the Regional Administrator for Region 1 of FRA's Office of Safety.

3. *Paragraph 12 is added to read as follows:*

12. *CSX Transportation (CSXT) Temporary Operating Protocols.*

(a) Effective upon June 28, 2001 until September 16, 2001, CSXT must adhere to the following protocols if it becomes necessary to dispatch a CSXT train from its initial terminal with inoperative onboard ACSES equipment:

(1) The train dispatcher must verbally authorize the movement; and

(2) The train dispatcher must issue a temporary speed restriction to limit the speed of high speed trains (Amtrak trains hauled by electric locomotives or electric power cars) to 110 mph in the ACSES territory where the CSXT train without operative ACSES equipment will operate.

(3) Once the CSXT train without operative ACSES equipment is verified to have cleared the ACSES territory, the train dispatcher may cancel the 110 mph speed restriction.

(b) Amtrak and CSXT shall make periodic reports on the implementation process in an agreed-upon format to the FRA.

Issued in Washington, DC on June 25, 2001.

S. Mark Lindsey,

Acting Deputy Administrator.

[FR Doc. 01–16281 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA–2001–9841

Applicants: NJ Transit Rail Operations, Inc., Mr. William R. Knapp, Vice President and General Manager-Rail, One Penn Plaza East, Newark, New Jersey 07105–2246; Norfolk Southern Corporation, Mr. Tony L. Ingram, Vice President—Transportation, 185 Spring Street, SW, Atlanta, Georgia 30303.

NJ Transit Rail Operations, Incorporated (NJ TRANSIT) and Norfolk Southern Corporation (NS) seek relief from the requirements of Part 236 Section 236.566, of the Rules, Standards and Instructions, to the extent that NJ Transit and NS be permitted to operate non-equipped freight and work train locomotives in Advanced Speed Enforcement System (ASES) train control territory.

NJ Transit is installing ASES to enhance safety on its entire property beginning with the Pascack Valley Line, on the single main track from Pascack Jct., milepost 7.7 to Woodbine Yard, milepost 31.1, on the Hoboken Division.

Applicant's justification for relief: An initial incremental installation of ASES is planned for passenger trains only, while software development, verification, and validation proceed on the more complex functionality required for full implementation of freight and work train modes, as well as, interoperability with Amtrak's Advanced Civil Speed Enforcement System which is currently being installed on Amtrak's Northeast Corridor. All trains operating in the territory where Cab Signal System rules are in effect will continue to be equipped with operational cab signals. Passenger trains will be equipped with

the first-generation ASES. Freight and work trains operating rules will not be altered; they will not be permitted on the main track during hours when passenger operations are scheduled.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, D.C. 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on June 21, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–16280 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9994]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel WINDSHEAR.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before July 30, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9994. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, D.C. 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, S.W., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: WINDSHEAR. Owner: Sam J. Davidson.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Hans Christian 41T, 41′ LOD, 51′ LOA, 13.0 Breadth, 9.2 Depth, 24 Gross Tons.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Day and evening sailboat charters, ½ or full 8 hour days, sunset cruises, in Pensacola Bay, and 50 miles east and west into the Gulf of Mexico. This would restrict my use of Mobile Bay, and limit my use of Choctawhatchee Bay in the Destin Area, as I cannot get under the 50′ bridge clearance at Destin, Florida. I cannot travel east in the Intercoastal Waterway past Navarre Beach, Florida, due to the 50′ bridge height; and Mobile Bay is more than 50 miles from Pensacola. I would like to be able to charter a two week trip to Key West, if some one wanted to take an extended trip of that nature from Pensacola, Florida.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1986. Place of construction: Taipei, Taiwan, Republic of China.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''In the Pensacola Area, the listings of boat charters include 15 fishing charters, 54 scuba charter, 1 airboat charter, and 2 pontoon & catamaran charters. One sailboat charter is listed in Perdido Bay, Alabama. The sailboat charter I purpose would be the only 41 foot sailboat in the Pensacola Bay area, as best as I can determine. Being able to charter my sailboat would have no impact on the Pensacola Bay and Gulf of Mexico area, as to the other charters listed.''

6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''The only two shipyards listed in Pensacola Bay area are Patti Shipyards, which builds shrimp boats, U.S. Coast Guard Vessels, and Paddlewheel Riverboats, and Charter Marine Industrial Services reworks ships at the Pensacola Navy base. Four other boat builders are listed,

which manufacturer small river fishing boats. A sailboat charter of my particular size boat only adds to the benefit of the local shipyards, as I have to have all maintenance performed locally (haulouts, bottom paint, engine maintenance), and equipment is all purchased locally.''

Dated: June 25, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16309 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9991]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CAT BALLOU.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before July 30, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9991. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: CAT BALLOU. Owner: Charles Joseph Longanecker.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Length: 42 ft.; Beam 23 ft.; Draft 6.6 ft.; Gross: 22 tons; Net 17 tons (measured pursuant to 46 U.S.C. 14502).''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: General Charter and Corporate Training Facility. West Coast of the U.S. from San Francisco to the Mexican Border, based in San Francisco Bay.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1991. Place of construction: Canet, France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''Given that we are a small recreational sailing vessel, desiring to take 12 or less passengers for limited day, coastal, corporate training, and recreational trips, the approval of this application will not have an adverse effect on existing passenger operators. Cat Ballou will be used as a platform for corporate retreats and strategic planning. There are many large and established charter operations in San Francisco providing passage on the bay and costal waters. The industry is healthy and demand has grown significantly in recent years.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''This waiver will have no adverse effect on U.S. shipyards. In the last 12 months over $100,000 has been spent for re-powering and re-rigging the boat with U.S. suppliers and shipyards. It costs approximately $40,000 per year at local boatyards and suppliers in the bay area to maintain Cat Ballou.''

Dated: June 25, 2001.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16306 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9996]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FANTASEA.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before July 30, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9996. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: FANTASEA. Owner: Fantasea, LLC.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''65 feet in length and has twin 650HP Man diesel engines. Her weight is 40 tons.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''The vessel is to be used for recreational snorkeling and scuba diving within the Hawaiian Islands.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1995. Place of construction: Mission, Canada.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''This application would have no impact on existing operations as boats operating from Hononokau Harbor on the island of Hawaii are used for sports fishing.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''This waiver should have no effect on U.S. shipyards as none are located on the Hawaiian Islands that build this type of vessel.''

Dated: June 25, 2001.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16305 Filed 6–27–01; 8:45 am]

BILLING CODE 3510–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9993]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ONAWA.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 30, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9993. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, S.W., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: ONAWA. Owner: Yacht Onawa, L.L.C.—McMillen Yachts, Inc.—managing member.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Length: 59.5′ Tonnage: 25 net Capacity: 12 passengers plus 3 crew.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant:

ONAWA will mainly sail the inland and near-coastal waters between Cape Henry, VA and Eastport, ME. ONAWA will have 3 regular crew and mostly be used as a time share for her 10 owners. When not sailing with owners aboard, she will be available for day chartering

with 2 sisterships for Seacope Systems, Inc. She will be based in Newport, RI, where a small fleet of similar old classic '12 meter' class vessels sail.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1928. Place of construction: Abeking and Rasmussen Shipyard, Vegesach, Germany. Date of Rebuilding: 2000–2001. Place of Rebuilding: Newport, RI, USA (ONAWA is currently in the process of a 95% rebuild).

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''The addition of ONAWA to the current 10 boat fleet of old classic 12-meter class vessels will not adversely affect the fleet, for two reasons: (1) ONAWA will primarily be used by her ten owners an a ''time-share'' arrangement. (2) When not sailing with her owners aboard, she will be available as an extra boat to add to the multi-boat 12 meter class fleet corporate charters. These vessels are out on charter daily racing each other in varying numbers, depending on the size of the group. ONAWA will be the oldest American twelve in the fleet, and her presence will only enhance their allure.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''The 20-month reconstruction process is taking place at the 'American Shipyard' in Newport, RI, using American materials or American-bought materials, and American craftsmen.''

Dated: June 25, 2001.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16308 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9995]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel S/V CAVU.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before July 30, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9995. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: S/V CAVU. Owner: John C. and Peggy J. Glass.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''27′ sailing catamaran.'' ''No more than 6 passengers.'' ''Carrying 6 gross tons.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''To carry passengers for hire on captained day charters and sunset cruises in the north central Gulf of Mexico out of our hailing port of Steinhatchee, Florida up to 25 miles offshore.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1983. Place of construction: Dorset, England.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''There would not be any negative impact on commercial passenger vessel operators. There are no known sailing charters in this immediate area. Approximately 8 operators that charter in this area cater to inshore and offshore fishing/scuba diving interest carrying no more than 6 passengers per charter.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''This charter operation would not have any impact on U.S. Shipyards.''

Dated: June 25, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16304 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10001]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel TANGENT.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as

represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before July 30, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10001. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: TANGENT. Owner: M.G. Communication, Inc.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Length: 50 foot Wood Grand Banks Trawler, Capacity: 12 passengers, Tonnage: Net of 45 tons and a gross of 57 tons.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: The intended commercial use of this is to be: (a) Scuba Diving Instruction. (b) Sunset cruises. (c) Catered Dinner Cruises. (d) Live Aboard Weekend and week long cruises. (e) Intercoastal Waterway Live Aboard Cruises. (f) Bare boat charters. Note: The TANGENT is currently documented as a Vessel of Registry for international Charter operations. The proposed area of operation is to be from The West Coast of Florida, Pensacola Florida to Key West Florida and up the Eastern Seaboard to Cape Cod Massachusetts. The primary Charter area will be along the coast of Florida from Jacksonville, Florida to Key West, Florida to include the Dry Tourtogas.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1971. Place of construction: Kowloon, China (Hong Kong).

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''Over the last two years I have done a great deal of research on weather or not it would be practical to establish this type of operation. I found no other single business operation with our capability and diversity operating in the geographic area I have specified. I am sure that at least a couple have to exist in this area that I have not discovered. I found that with our boat rated as an uninspected vessel for 12 passengers or less we were one of very few that would be operating in the specified area. I found that from Jacksonville Florida to Jupiter Inlet only 2 live aboard operations were in service. I found 3 dive boat operations existed. From West Palm Beach Florida to Key West Florida I found 12 live aboard operations were in service. Most of these operations were much larger and were certified vessels which carried more than 12 passengers. I found 51 small charter businesses that that did nothing but diving charters. The greater majority of these vessels were certified vessels for more than 12 passengers. I found 1 Dinner Cruise vessel for 12 passengers or less and 1 dinner cruise operation operating with an uninspected vessel certification. I found 7 dinner cruise and sightseeing vessels all of which were large capacity certified vessels. None were in my class of vessel. I found 1 catered dinner cruise vessel in Key West Florida. I found no Inland waterway live aboard cruises operations in Florida and only one other operation operating out of Savanna Georgia. In the specified geographic area I have noted above the population base is somewhere around 12 million people. A single vessel such as TANGENT has no appreciable impact on the charter or boat manufacturing industry. As far as I am aware there are not manufacturers of Motor Yacht Trawlers in the United States at this time. Most vessels of this type are used as privately owned vessels for small intimate groups of friend or relatives and built outside of the United States. I know of no other Trawlers in commercial operation as charter vessels other than Bare Boat Charter businesses. The TANGENT is currently operational and meets all Coast Guard regulations to do business as a bare boat charter vessel.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''Due to the age of the vessel and the type of vessel it is it has absolutely no impact on United States Vessel builders.''

Dated: June 25, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16303 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9992]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel VENUS.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is

authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before July 30, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9992. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: VENUS. Owner: James A. Nations.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Length 50.9 ft.; Breadth: 15.3 ft.; Depth 15.0 ft.; Gross: 58 tons Net: 52 tons (measured pursuant to 46 U.S.C. 14502).''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''General Charter and language school and corporate training facility. West Coast of the United States from Alaska to the Mexican Border, based in San Francisco Bay.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1981. Place of construction: Bosund Jakobstad, Finland.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''The addition of one small vessel (limited to no more than 12 passengers) to the existing fleet of larger commercial vessels will have no significant impact. This is particularly true in this instance where our focus is catering to advanced ESL (English as a Second Language) students and as a platform for Corporate Training. I am not aware of any similar service on the West Coast. We have been asked by several ESL educational institutions in the Bay Area to offer such a program to fill this void.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''This waiver will have no adverse impact on U.S. Shipyards. This is a 20-year-old vessel. In recent years over $150,000 has been spent in U.S. shipyards for re-powering, sails, rigging, painting and general maintenance. Commercial use of this vessel will require additional expenditures of approximately $35,000 per year at local U.S. boatyards and equipment suppliers.''

Dated: June 25, 2001.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16307 Filed 6–27–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 21, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 30, 2001 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0007.

Form Number: ATF Form 3310.6.

Type of Review: Extension.

Title: Interstate Firearms Shipment Report of Theft/Loss.

Description: This form is part of a voluntary program in which the common carrier and/or shipper report losses or thefts of firearms from interstate shipments. National Crime Information Center, to initiate investigations, and to perfect criminal cases.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,014.

Estimated Burden Hours Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 338 hours.

OMB Number: 1512–0033.

Form Number: ATF F 1534–A (5000.19).

Type of Review: Extension.

Title: Tax Authorization Information.

Description: Information disclosure, proprietary data, tax information confidentiality ATF F 1534–A (5000.19) is required by ATF to be filed when a respondent's representative, not having a power of attorney, wishes to obtain confidential information regarding the respondent. After proper completion of the form, information can be released to the representative.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.
Estimated Total Reporting Burden: 50 hours.
OMB Number: 1512–0035.
Form Number: ATF F 5000.21.
Type of Review: Extension.
Title: Referral of Information.
Description: Information services organizations by Federal, State or local governments. ATF asks the Federal agency or State or local regulatory compliance agency to respond as to any action that will be taken and if so the action planned on referrals of potential violations of Federal, State or local law discovered by ATF personnel during investigations. It is also used to evaluate effectiveness of these referrals.
Respondents: Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Other (as necessary).
Estimated Total Reporting Burden: 500 hours.
OMB Number: 1512–0043.
Form Number: ATF F 8 (5310.11) Part II.
Type of Review: Extension.
Title: Application for Renewal of Federal Firearms License.
Description: This form is filed by the licensee desiring to renew a Federal firearms license. It is used to identify the applicant, locate the business/collection premises, identify the type of business/collection activity, and determine the eligibility of the applicant.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 35,000.
Estimated Burden Hours Per Respondent: 25 minutes.
Frequency of Response: Other (once every 3 years).
Estimated Total Reporting Burden: 14,750 hours.
OMB Number: 1512–0182.
Form Number: ATF F 5400.13/5400.16.
Type of Review: Extension.
Title: Application for License or Permit Under 18. U.S.C., Chapter 40, Explosives.
Description: Emphasis is placed on qualifying applicants and identifying proper storage facilities. This form allows application for an explosives license or permit, which, if approved, permits the holder to engage in manufacturing, importing, dealing, or using explosive materials under the Organized Crime Control Act of 1970.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, State, Local or Tribal Government.
Estimated Number of Respondents: 2,100.
Estimated Burden Hours Per Respondent: 1 hour and 9 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 812 hours.
OMB Number: 1512–0221.
Form Number: ATF 5640.1.
Type of Review: Extension.
Title: OFFER IN COMPROMISE of Liability Incurred Under the Provisions of Title 26 U.S.C. Enforced and Administered by the Bureau of Alcohol, Tobacco and Firearms.
Description: ATF F 5640.1 is used by persons who wish to compromise criminal and/or civil penalties for violations of the Internal Revenue Code. If accepted, the offer in compromise is a settlement between the government and the party in violation in lieu of legal proceedings or prosecution. The form identifies the party making the offer, violations, amount of offer and circumstances concerning the violations.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 40.
Estimated Burden Hours Per Respondent: 2 hours.
Frequency of Response: Other (as necessary).
Estimated Total Reporting Burden: 80 hours.
OMB Number: 1512–0242.
Form Number: ATF F 5400.6.
Type of Review: Extension.
Title: User-Limited (Explosives).
Description: The user-limited permit is useful to the person making a one-time purchase from out-of-state. It is used one time only and is nonrenewable. The explosives distributor makes entries on the form and returns the form to the permittee to prevent reuse of the #2 permit.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1,092.
Estimated Burden Hours Per Respondent: 12 minutes.
Frequency of Response: Other (5 years).
Estimated Total Reporting Burden: 22 hours.
OMB Number: 1512–0371.
Recordkeeping Requirement ID Number: ATF REC 5400/1.
Type of Review: Extension.
Title: Inventories, Licensed Explosives Importers, Manufacturers, Dealers, and Permittees.
Description: These records show the explosive material inventories of those persons engaged in various activities within the explosives industry and are used by the government as initial figures from which an audit trail can be developed during the course of a compliance inspection or criminal investigation.
Respondents: Business or other for-profit.
Estimated Number of Recordkeepers: 13,106.
Estimated Burden Hours Per Recordkeeper: 2 hours.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 26,212 hours.
OMB Number: 1512–0509.
Form Number: ATF F 5300.27.
Type of Review: Extension.
Title: Federal Firearms and Ammunition Excise Tax Deposit.
Description: Business and individuals who manufacture or import firearms, shells and cartridges may be required to deposit Federal excise tax. ATF uses this information to identify the taxpayer and the deposit.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 283.
Estimated Burden Hours Per Respondent: 9 minutes.
Frequency of Response: On occasion, Monthly, Other.
Estimated Total Reporting Burden: 770 hours.
Clearance Officer: Frank Bowers, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–16207 Filed 6–27–01; 8:45 am]
BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 21, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance

Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 30, 2001 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0225.

Form Number: None.

Type of Review: Reinstatement.

Title: African Growth and Opportunity Act Certificate of Origin.

Description: The collection of information is required to implement the duty preference provisions of The African Growth and Opportunity Act (AGOA) to provide for extension of duty-free treatment under the Generalized System of Preferences (GSP) to not-import sensitive articles normally excluded from GSP duty treatment, and to provide for the entry of specific textile and apparel articles free of duty and free of any quantitative limits to the countries of sub-Saharan Africa.

Respondents: Business or other for-profit, Individuals or households, not-for-profit institutions.

Estimated Number of Respondents: 440.

Estimated Burden Hours Per Respondent: 1 hour, 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 10,400 hours.

OMB Number: 1515–0226.

Form Number: Customs Form 450.

Type of Review: Reinstatement.

Title: United States-Caribbean Basin Trade Partnership Act.

Description: The collection of information is required to implement the duty preference provisions of The United States-Caribbean Basin Trade Partnership Act of 2000 (CBTPA), to expand trade benefits to countries in the Caribbean Basin.

Respondents: Business or other for-profit, Individuals or households, not-for-profit institutions.

Estimated Number of Respondents: 440.

Estimated Burden Hours Per Respondent: 1 hours, 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 18,720 hours.

Clearance Officer: Tracey Denning, (202) 927–1429, U.S. Customs Service, Information Services Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–16208 Filed 6–27–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 18, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 30, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0122.

Form Number: IRS Form 1118, Schedule I and Schedule J.

Type of Review: Revision.

Title: Foreign Tax Credit-Corporations.

Description: Form 1118 and separate Schedules I and J are used by domestic and foreign corporations to claim a credit for taxes paid to foreign countries. The IRS uses Form 1118 and related schedules to determine if the corporation has computed the foreign tax credit correctly.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 30,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form of schedule	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
Form 1118	97 hr., 19 min	17 hr., 51 min	21 hr., 9 min.
Schedule I (Form 1118)	9hr., 19 min	1 hr., 0 min	1 hr., 11 min.
Schedule J (Form 1118)	106 hr., 25 min	1 hr., 12 min	2 hr., 58 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 4,113,889 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service,Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–16209 Filed 6–27–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 21, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 30, 2001, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1610.

Form Number: IRS Form 5500 and Schedules.

Type of Review: Extension.

Title: Annual Return/Report of Employee Benefit Plan.

Description: Form 5500 is an annual information return by employee benefit plans. The IRS uses this information to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, farms.

Estimated Number of Respondents/Recordkeepers: 998,682.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form/Schedule	Pension plans		Welfare plans	
	Large	Small	Large	Small
Form 5500	1 hr., 44 min	1 hr., 6 min	1 hr., 38 min	1 hr., 5 min.
Schedule A	1 hr., 41 min	53 min	8 hr., 10 min	2 hr., 11 min.
Schedule B	6 hr., 38 min	31 min		
Schedule C	1 hr., 17 min		52 min	
Schedule D	10 hr., 0 min	10 hr., 0 min		
Schedule E	3 hr., 18 min	3 hr., 18 min		
Schedule F			45 min	26 min.
Schedule G	11 hr., 58 min		6 hr., 28 min	
Schedule H	7 hr., 56 min		3 hr., 22 min	
Schedule I		1 hr., 28 min		1 hr., 28 min.
Schedule P	13 min	2 min		
Schedule R	1 hr., 0 min	30 min		
Schedule SSA	6 hr., 10 min	1 hr., 42 min		
Schedule T	4 hr., 40 min	37 min		

Frequency of Response: Annually.

Estimated Total Reporting./Recordkeeping Burden: 4,378,728 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–16210 Filed 6–27–01; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INSTITUTE OF PEACE

Announcement of Senior Fellowship Competition

AGENCY: United States Institute of Peace.

ACTION: Notice.

SUMMARY: The agency is soliciting applications for Senior Fellowships from scholars or practitioners who conduct research related to the peaceful resolution of international conflict. Fellowship entails residence at agency in Washington, DC, for up to ten months beginning October 1, 2002.

DATES: Application Material Available Upon Request; Receipt Date for Return of Applications: September 17, 2001; Notification of Awards: April, 2002.

ADDRESSES: For application materials, visit the Institute's website at www.usip.org, or contact: United States Institute of Peace, Jennings Randolph Program, 1200 17th Street, NW., Suite 200, Washington, DC 20036–3011, (202) 429–6063 (fax), (202) 457–1719 (TTY), jrprogram@usip.org (email).

FOR FURTHER INFORMATION CONTACT: Jennings Randolph Program, Phone (202) 429–3886.

Dated: June 18, 2001.

Bernice J. Carney,

Director, Office of Administration.

[FR Doc. 01–16277 Filed 6–27–01; 8:45 am]

BILLING CODE 6820–AR–M

Reader Aids

Federal Register

Vol. 66, No. 125

Thursday, June 28, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**

Presidential Documents

Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**

Other Services

Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

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FEDERAL REGISTER PAGES AND DATE, JUNE

29661–29894	1
29895–30056	4
30057–30286	5
30287–30628	6
30629–30800	7
30801–31106	8
31107–31374	11
31375–31834	12
31835–32206	13
32207–32528	14
32529–32712	15
32713–32890	18
32891–33012	19
33013–33154	20
33155–33458	21
33459–33630	22
33631–33828	25
33829–34082	26
34083–34352	27
34353–34522	28

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:

11 30340

3 CFR

Proclamations:

7208 (See Proc. 7445) 30053
7214 (See Proc. 7445) 30053
7445 30053
7446 30287
7447 31367
7448 31371
7449 31375
7450 32205
7451 32891

Executive Orders:

13035 (Amended by EO 13215) 30285
13092 (see EO 13215) 30285
13111 (Amended by EO 13218) 33627
13113 (see EO 13215) 30285
13125 (Amended by EO 13216) 31373
13159 (See notice of June 11, 2001) 32207
13174 (Revoked by EO 13218) 33627
13200 (see EO 13215) 30285
13215 30285
13216 31373
13217 33155
13218 33627

Administrative Orders:

Notices:
Notice of June 11, 2001 32207
Presidential Determinations:
No. 2001–16 of June 1, 2001 30631
No. 2001–17 of June 1, 2001 30633
No. 2001–18 of June 8, 2001 34353
No. 2001–19 of June 11, 2001 34355
Memorandums:
Memorandum of May 30, 2001 30629
Memorandum of May 31, 2001 31833
Memorandum of June 5, 2001 30799

5 CFR

330 29895
332 29895
351 29895
353 29895
1201 30635

7 CFR

2 31107
220 33631
272 29661
273 29661
301 ..... 32209, 32713, 33631, 33740
319 32210
360 32213
929 34332
932 30289
985 30291
993 30642
1482 30801

Proposed Rules:

301 32268
319 29735
981 31850
1030 31185
1944 29739

8 CFR

100 29661
103 ..... 29661, 29682, 32138
212 32529
214 31107
236 29661
245a 29661
248 31107
274a 29661
299 ..... 29661, 29682, 31107
310 32138
320 32138
322 32138
334 32138
337 32138
338 32138
341 32138

9 CFR

78 32893
94 ..... 29686, 29897, 29899

Proposed Rules:

93 29921

10 CFR

2 33013
72 33013
150 32452
170 32452
171 32452

Proposed Rules:

2 29741
430 32914
1008 32272

12 CFR

8 29890

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JUNE 28, 2001

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cranberries grown in—

Various States; published 6-27-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

White abalone; published 5-29-01

ENVIRONMENTAL PROTECTION AGENCY

Organization, functions, and authority delegations:

Agency headquarters; change of official mailing address; published 6-28-01

JUSTICE DEPARTMENT

DNA identification system:

Qualifying Federal offenses for purposes of DNA sample collection and related responsibilities of the Bureau of Prisons and FBI; published 6-28-01

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright office and procedures:

General provisions, registration of claims to copyright, freedom of information, privacy, service of process, and mask works; technical amendments; published 6-28-01

SMALL BUSINESS ADMINISTRATION

Program for Investment in Microentrepreneurs Act; implementation:

Disadvantaged entrepreneurs; training and technical assistance grants; published 5-29-01

SOCIAL SECURITY ADMINISTRATION

Social security benefits:

Federal old age, survivors, and disability insurance—

Impairments; medical and other evidence and medical consultant definition; published 6-28-01

COMMENTS DUE NEXT WEEK

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

Federal Register, Administrative Committee

Federal Register publications; prices and availability; comments due by 7-6-01; published 6-6-01

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Ratites and squabs; mandatory inspection; comments due by 7-2-01; published 5-1-01

Republication; comments due by 7-2-01; published 5-7-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Northeastern United States fisheries—

Black sea bass; comments due by 7-5-01; published 6-5-01

West Coast States and Western Pacific fisheries—

Western Pacific pelagic; comments due by 7-2-01; published 5-18-01

COMMODITY FUTURES TRADING COMMISSION

Security futures products; designated contract markets; comments due by 7-2-01; published 5-31-01

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Contractor personnel; information technology services procurement; comments due by 7-2-01; published 5-2-01

Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; revocation; comments due by 7-6-01; published 5-7-01

Performance-based contracting; preference; comments due by 7-2-01; published 5-2-01

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 7-5-01; published 6-5-01

Indiana; comments due by 7-2-01; published 5-31-01

Louisiana; comments due by 7-2-01; published 5-31-01

Virginia; comments due by 7-2-01; published 5-31-01

Hazardous waste program authorizations:

Maryland; comments due by 7-2-01; published 6-1-01

Hazardous waste:

Project XL program; site-specific projects—

IBM semiconductor manufacturing facility, Hopewell Junction, NY; comments due by 7-6-01; published 6-6-01

Water pollution; effluent guidelines for point source categories:

Metal products and machinery facilities; comments due by 7-2-01; published 4-27-01

Water supply:

Underground injection control program—

Class V wells; comments due by 7-6-01; published 5-7-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Public mobile services—

Cellular radiotelephone services; biennial review; comments due by 7-2-01; published 6-12-01

Satellite communications—

Non-geostationary satellite orbit, fixed satellite service in Ku-band; policies and service rules; comments due by 7-6-01; published 6-6-01

Radio stations; table of assignments:

Michigan; comments due by 7-2-01; published 6-6-01

South Carolina; comments due by 7-2-01; published 6-1-01

FEDERAL EMERGENCY MANAGEMENT AGENCY

Disaster assistance:

Public Assistance Program and Community Disaster Loan Program; comments due by 7-3-01; published 5-4-01

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Thrift Savings Plan:

Uniformed services account; comments due by 7-2-01; published 5-1-01

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Contractor personnel; information technology services procurement; comments due by 7-2-01; published 5-2-01

Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; revocation; comments due by 7-6-01; published 5-7-01

Performance-based contracting; preference; comments due by 7-2-01; published 5-2-01

Federal travel:

Travel expenses payment from non-Federal source; comments due by 7-3-01; published 5-4-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:

Hospital inpatient prospective payment systems and 2002 FY rates; comments due by 7-3-01; published 5-4-01

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Mortgage and loan insurance programs:

Home Equity Conversion Mortgage Program; insurance for mortgages to refinance existing loans; comments due by 7-5-01; published 6-5-01

INTERIOR DEPARTMENT

Indian Affairs Bureau

Law and order:

Santa Fe Indian School property; Court of Indian Offenses establishment; comments due by 7-2-01; published 5-3-01

INTERIOR DEPARTMENT

Land Management Bureau

Minerals mangement:

Fee changes; comments due by 7-2-01; published 4-16-01

INTERIOR DEPARTMENT

Fish and Wildlife Service

Migratory bird hunting:

Seasons, limits, and shooting hours; establishment, etc.; comments due by 7-6-01; published 6-14-01

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 1914/P.L. 107–17

To extend for 4 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (June 26, 2001; 115 Stat. 151)

Last List June 11, 2001

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