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Contents

Federal Register

Vol. 66, No. 143

Wednesday, July 25, 2001

Agriculture Department
See Animal and Plant Health Inspection Service
See Natural Resources Conservation Service
RULES
Export sales reporting requirements:
Beef and pork, 38526–38528

Alcohol, Tobacco and Firearms Bureau
RULES
Alcoholic beverages:
Puerto Rico and Virgin Islands liquors and articles; recodification of regulations, 38547–38553

Animal and Plant Health Inspection Service
NOTICES
Committees; establishment, renewal, termination, etc.:
National Wildlife Services Advisory Committee, 38628

Centers for Disease Control and Prevention
NOTICES
Grant and cooperative agreement awards:
Bangkok Metropolitan Administration, Thailand, 38706–38707
Vietnam Health Ministry, 38707–38708
Zimbabwe Health and Child Welfare Ministry, 38708–38709
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panels, 38709–38710

Centers for Medicare and Medicaid Services
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38710
Submission for OMB review; comment request, 38710

Commerce Department
See Economic Development Administration
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Singapore, 38643
United Arab Emirates, 38644

Defense Department
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 38644–38645

Defense Nuclear Facilities Safety Board
NOTICES
Meetings; Sunshine Act, 38645

Economic Development Administration
NOTICES
Trade adjustment assistance eligibility determination petitions:
Chami Design, Inc., et al., 38629–38630

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38645–38646
Grants and cooperative agreements; availability, etc.:
Elementary and secondary education—
Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program, 38883–38886

Employment and Training Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38746–38748

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Environmental statements; availability, etc.:
Waste Management Program; transuranic waste treatment and storage, 38646–38648
Environmental statements; notice of intent:
Nevada Test Site, NV; wind farm, 38648–38650
Grants and cooperative agreements; availability, etc.:
Off-highway vehicles, including construction, agriculture, and mining equipment; energy efficiency increase, emissions reduction, etc., 38650

Energy Efficiency and Renewable Energy Office
PROPOSED RULES
Consumer products; energy conservation program:
Energy conservation standards—
Central air conditioners and heat pumps, 38821–38844

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 38565–38569
California, 38561–38565
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 38569–38571
PROPOSED RULES
Air quality planning purposes; designation of areas:
Arizona, 38603–38608
Louisiana, 38608–38610
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 38610–38611
NOTICES
Air pollution control:
Citizens suits; proposed settlements—
Sierra Club v. Whitman, 38673–38674
Confidential business information and data transfer, 38674–38675
Pesticide registration, cancellation, etc.:
Illoxan 3EC Herbicide, etc., 38675–38689

Superfund program:
Prospective purchaser agreements—
Twin City Casting Site, MN, 38689

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Aerospatiale, 38532–38533, 38535–38536
Dornier, 38533–38535
General Aviation, 38536–38538
Class E airspace, 38538–38539
PROPOSED RULES
Airworthiness directives:
Boeing, 38583–38585, 38587–38591
Dassault, 38585–38586
NOTICES
Exemption petitions; summary and disposition, 38776–38779

Federal Bureau of Investigation
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38742

Federal Communications Commission
PROPOSED RULES
Common carrier services:
Telecommunications Act of 1996; implementation—
Local competition provisions (1996); update, etc., 38611
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38689–38690
Common carrier services:
Wireless telecommunications services—
747-762 and 777-792 MHz bands auction, 38704–38705
Narrowband PCS spectrum license auction; notice and filing requirements, minimum opening bids, upfront payments, etc., 38690–38704
Television broadcasting:
Limited low power television/television translator/Class A television auction filing window; mutually exclusive proposals, 38705

Federal Election Commission
PROPOSED RULES
Federal Election Campaign Act:
Brokerage loans and lines of credit, 38576–38583

Federal Energy Regulatory Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38650–38651
Electric rate and corporate regulation filings:
Mobile Energy LLC et al., 38661–38663
New England Inc. et al., 38663–38665
Hydroelectric applications, 38665–38670
Applications, hearings, determinations, etc.:
Colorado Interstate Gas Co., 38651–38652
Columbia Gas Transmission Corp., 38652
Dauphin Island Gathering Partners, 38652–38653
Dominion Transmission, Inc., 38653
El Paso Natural Gas Co., 38653–38654
Guardian Pipeline, L.L.C., 38654–38655
Gulf South Pipeline Co., 38670
Kern River Gas Transmission Co., 38655
Kinder Morgan Interstate Gas Transmission LLC, 38655–38656
Natural Gas Pipeline Co. of America, 38656
Northern Natural Gas Co., 38656–38658
Northwest Alaskan Pipeline Co., 38658
Northwest Pipeline Corp., 38658
San Manuel Power Co. LLC, 38658–38659
Southern Natural Gas Co., 38659
TransColorado Gas Transmission Co., 38659–38660
Trunkline LNG Co., 38660–38661
Williston Basin Interstate Pipeline Co., 38661

Financial Management Service
See Fiscal Service

Fiscal Service
PROPOSED RULES
Marketable book-entry Treasury bills, notes, and bonds:
Securities auctions; net long position and 35 percent award limit; calculation, 38600–38602
NOTICES
Surety companies acceptable on Federal bonds:
Charter Oak Fire Insurance Co. et al; terminations, 38780

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc.—
Yellow-billed cuckoo, 38611–38626
NOTICES
Endangered and threatened species permit applications, 38738–38739
Meetings:
Endangered Species of Wild Fauna and Flora International Trade Convention; information and recommendations request, 38739–38740

Food and Drug Administration
RULES
Medical devices:
Class I devices; premarket notification requirements, exemption; technical amendment, 38785–38819
PROPOSED RULES
Food for human consumption:
Food labeling—
Allergens presence and labeling in foods; meeting, 38591–38594
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38711–38713
Submission for OMB review; comment request, 38713
Meetings:
Anesthetic and Life Support Drugs Advisory Committee, 38713–38714
Medical Devices Advisory Committee, 38714
Reports and guidance documents; availability, etc.:
Medical devices; globally harmonized alternative for premarket procedures; pilot program, 38714–38716

Foreign Assets Control Office
RULES
Highly enriched uranium agreement assets control regulations:
Russian Federation; disposal of highly enriched uranium extracted from nuclear weapons, 38554–38561
Iranian assets control regulations:
Iran-U.S. Claims Tribunal; custodians of Iranian property interests, 38553–38554

General Services Administration
NOTICES
Environmental statements; availability, etc.:
Washington, DC; Transportation Department; lease acquisition of new or renovated headquarters, 38705
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 38644–38645

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare and Medicaid Services
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See Public Health Service

Health Care Financing Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38716

Health Resources and Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38716–38717

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 38670–38673

Housing and Urban Development Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38719–38720
Submission for OMB review; comment request, 38720
Grants and cooperative agreements; availability, etc.:
Fair Housing Initiatives Program, 38845–38881
Mortgagee Review Board; administrative actions, 38720–38738

Interior Department
See Fish and Wildlife Service

Internal Revenue Service
RULES
Estate and gift taxes:
Estate tax return; automatic 6-month extension to file, 38544–38547
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38780–38782

International Trade Administration
NOTICES
Antidumping:
Solid agricultural grade ammonium nitrate from—
Ukraine, 38632–38635
Antidumping and countervailing duties:
Oil country tubular goods from—
Various countries, 38630–38632
Countervailing duties:
Cut-to-length carbon-quality steel plate from—
Korea, 38636
Applications, hearings, determinations, etc.:
Stanford University, 38635–38636

International Trade Commission
NOTICES
Import investigations:
Individually quick frozen red raspberries from—
Chile, 38740–38741
Sortation systems, parts, and products containing same, 38741–38742

Justice Department
See Federal Bureau of Investigation
See Juvenile Justice and Delinquency Prevention Office

Juvenile Justice and Delinquency Prevention Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Missing and Exploited Children Nonprofit Organizations and Family Support Program, 38742–38746

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Kentucky May Coal Co. et al., 38748–38750

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 38644–38645

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 38750–38752

National Labor Relations Board
PROPOSED RULES
Freedom of Information Act; implementation, 38594–38600

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pacific Ocean perch, 38574
Pelagic shelf rockfish, 38574–38575
Sablefish, 38573–38574
West Coast States and Western Pacific fisheries—
Pacific mackerel, 38571–38573
West Coast salmon, 38573
PROPOSED RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Western Alaska Community Development Quota Program, 38626–38627
NOTICES
Grants and cooperative agreements; availability, etc.:
Mid-Atlantic Fishery Management Council; research proposals, 38636–38640
Permits:
Endangered and threatened species, 38640–38643

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Bayou L'Ours Ridge Hydrologic Restoration Project, LA, 38628

South Lake Decade Freshwater Introduction Project, LA, 38628–38629
Field office technical guides; changes:
New York, 38629

Nuclear Regulatory Commission
RULES
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Changes, tests, and experiments; correction, 38528
NOTICES
Environmental statements; availability, etc.:
Exelon Generation Co., LLC, 38755–38756
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 38756–38771
Applications, hearings, determinations, etc.:
Exelon Generation Co., LLC, 38753
Indiana Michigan Power Co., 38753–38755

Personnel Management Office
RULES
Retirement:
Law enforcement officers and firefighters; special retirement provisions, 38523–38526

Postal Rate Commission
PROPOSED RULES
Practice and procedure:
Expired rules; comment request, 38602–38603

Presidential Documents
PROCLAMATIONS
Special observances:
Parents' Day (Proc. 7456), 38887–38890

Public Debt Bureau
See Fiscal Service

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
NOTICES
National Toxicology Program:
Chemicals nominated for toxicological studies; testing recommendations; comment request, 38717–38719

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38771
Investment Company Act of 1940:
Exemption applications—
Nationwide Mutual Funds et al., 38771–38773
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 38773–38774
Pacific Exchange, Inc., 38774–38776

Small Business Administration
RULES
Disaster loan program:
Military reservist economic injury disaster loans, 38528–38531
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38776

State Department
RULES
Visas; nonimmigrant documentation:
XIX Olympic Winter Games and VIII Paralympic Winter Games, UT; nonimmigrant visa applications, 38539–38544
NOTICES
Art objects; importation for exhibition:
Masterpieces and Master Collectors; Impressionist and Early Modern Paintings from the Hermitage and Guggenheim Museums, 38776

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Union Pacific Railroad Co., 38779

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38782–38783

Transportation Department
See Federal Aviation Administration
See Surface Transportation Board

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Fiscal Service
See Foreign Assets Control Office
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38779–38780

Separate Parts In This Issue

Part II
Department of Health and Human Services, Food and Drug Administration, 38785–38819

Part III
Department of Energy, Office of Energy Efficiency and Renewable Energy, 38821–38844

Part IV
Department of Housing and Urban Development, 38845–38881

Part V
Department of Education, 38883–38886

Part VI
The President, 38887–38890

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:
7456.....38889

5 CFR
831.....38523
842.....38523

7 CFR
20.....38526

10 CFR
72.....38528

Proposed Rules:
430.....38822

11 CFR

Proposed Rules:
100.....38576
104.....38576
113.....38576

13 CFR
123.....38528

14 CFR
39 (4 documents) 38532, 38533, 38535, 38536
71.....38538

Proposed Rules:
39 (4 documents) 38583, 38585, 38587, 38588

21 CFR
862.....38786
864.....38786
866.....38786
868.....38786
870.....38786
872.....38786
874.....38786
876.....38786
878.....38786
880.....38786
882.....38786
884.....38786
886.....38786
888.....38786
890.....38786
892.....38786

Proposed Rules:
101.....38591

22 CFR
41.....38539

26 CFR
20.....38544
602.....38544

27 CFR
4.....38547
5.....38547
7.....38547
17.....38547
19.....38547
20.....38547
22.....38547
24.....38547
25.....38547
26.....38547
70.....38547
250.....38547
251.....38547

29 CFR

Proposed Rules:
102.....38594

31 CFR
535.....38553
540.....38554

Proposed Rules:
356.....38600

39 CFR

Proposed Rules:
3001.....38602

40 CFR
52 (2 documents) 38561, 38565
300.....38569

Proposed Rules:
81 (2 documents) 38603, 38608
300.....38610

47 CFR

Proposed Rules:
51.....38611

50 CFR
660 (2 documents) 38571, 38573
679 (3 documents) 38573, 38574

Proposed Rules:
17.....38611
679.....38626

Rules and Regulations

Federal Register
Vol. 66, No. 143
Wednesday, July 25, 2001

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206–AJ39

Law Enforcement Officer and Firefighter Retirement

AGENCY: Office of Personnel Management.

ACTION: Interim rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim rules that permit certain police officers with the Metropolitan Washington Airports Authority (MWAA) to elect coverage under the special retirement provisions for law enforcement officers. OPM is also amending the regulations governing special retirement provisions for law enforcement officers and firefighters employed under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). These changes are intended to clarify and interpret previously promulgated regulations.

DATES: *Effective Date:* This interim rule is effective July 25, 2001.

Comment: We must receive your comments by August 24, 2001.

ADDRESSES: Send comments on this interim regulation to Mary Ellen Wilson, Director, Retirement Policy Center, Office of Personnel Management, Washington, DC 20415–3200. You may also submit comments by sending electronic mail (E-mail) to: *combox@opm.gov*.

FOR FURTHER INFORMATION CONTACT: Patrick Jennings (202) 606–0299.

SUPPLEMENTARY INFORMATION:

Coverage Elections for Metropolitan Washington Airports Authority Police Officers Under CSRS or FERS

On December 21, 2000, Congress enacted the Consolidated Appropriations Act, 2001 (Public Law 106–554, 114 Stat. 2763). The Consolidated Appropriations Act, 2001 incorporated the Treasury and General Government Appropriations Act, 2001 (H.R. 5658) by reference (published as Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–125). Section 636 of H.R. 5658 allows certain members of the police force of the Metropolitan Washington Airports Authority (MWAA) to elect to be treated as law enforcement officers for the purpose of retirement. Only MWAA police officers employed as of December 21, 2000, who are subject to CSRS or FERS retirement by virtue of section 49107(b) of title 49, United States Code, may make such an election. An election by an MWAA police officer to be treated as a law enforcement officer for retirement purposes must be made either before the police officer separates from the MWAA or within 1 year from the effective date of these regulations, whichever is earlier.

An MWAA police officer covered by CSRS or FERS who elects to be treated as a law enforcement officer will receive law enforcement officer service credit for his or her past service as a police officer with the Federal Aviation Administration and the MWAA, subject to a deposit of retirement deductions plus interest. The MWAA must pay the agency's share of retirement contributions for the employee's service, plus interest.

Delegation of Authority To Deny Coverage

Under the CSRS and FERS law enforcement officer and firefighter regulations a department headquarters-level official who is the sole such representative for the entire department must make law enforcement officer or firefighter coverage-approval decisions for position-based retirement coverage. Due to cost and consistency of decision considerations, the authority to approve law enforcement officer or firefighter coverage must be made by the agency head or, in the case of an executive department, the designated representative of the head of the executive department. The regulations do not expressly provide that an agency head can delegate the authority to deny enhanced retirement coverage to any level within an agency. Although the regulations did not address the issue, delegation by the agency head of his or her authority to deny enhanced coverage was discussed in the supplementary information published with previous CSRS and FERS regulations. The supplementary comments published with the FERS law enforcement and firefighter regulations indicate that an agency head can delegate the authority to deny enhanced coverage to any level within the agency. Specifically, the supplementary information states that:

> Section 842.804(c) allows an individual to request a determination as to whether his or her position qualifies as a law enforcement officer, firefighter, or air traffic controller position. Of course, any affirmative determination must be made by the agency head in accordance with § 842.803. *However, a denial of an individual request for position approval may be made by the agency head's designated representative, in accordance with agency delegations of authority.* Any final agency decision denying an individual's request for position approval may be appealed to the Merit Systems Protection Board.
>
> We are amending § 842.807 to clarify that (1) only agency denial decisions made in response to individual requests under § 842.804(c) are subject to appeal and (2) *agency denial decisions may be made by officials below the level of agency head * * *.* (57 FR 32,685, 32,689 (1992)) (emphasis added).

The CSRS regulations also allow an agency head to delegate the authority to deny law enforcement officer and firefigher coverage to any level within the agency. Further, the U.S. Merit Systems Protection Board has held that supplementary information published with the FERS law enforcement and firefighter regulations makes it clear that an agency head can delegate the authority to deny enhanced coverage to any level within the agency. *See Streeter v. Department of Defense,* 80 M.S.P.R. 481, 484 (1998) (*citing* 57 FR 32685, 32688 (July 23, 1992)). OPM is incorporating into the body of the regulations the information regarding an agency head's authority to delegate denial decisions to any level within the agency.

Waiver of General Notice of Proposed Rulemaking

Under section 553(b)(3)(A) and (B), and (d)(2) and (3) of title 5, United States Code, I find that these regulations contain interpretive rules and statements of policy, and that good

cause exists for waiving the general notice of proposed rulemaking and for making these rules effective in less than 30 days. Elections of law enforcement coverage by qualifying members of the Metropolitan Washington Airports Authority police force under these regulations will affect qualifying employees' retirement coverage retroactive to their entry on duty with the Metropolitan Washington Airports Authority. Publication of a general notice on proposed rulemaking would be contrary to the public interest because it would delay the election opportunity for eligible individuals.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect a small number of employees of the Metropolitan Washington Airports Authority.

List of Subjects in 5 CFR Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability Benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR parts 831 and 842 as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105–174, 112 Stat. 58; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under section 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.301 also issued under section 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and section 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337; Sec. 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under section 11004 (c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; Sec. 831.912 also issued under section 636 of H.R. 5658, incorporated by reference in Pub. L. 106–554, 114 Stat. 2763, and published as Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–125; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart I—Law Enforcement Officers and Firefighters

2. Amend § 831.902 by revising the definition of *agency head* to read as follows:

§ 831.902 Definitions.

* * * * *

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For the purpose of an approval of coverage under this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that the designated representative must be a department headquarters-level official who reports directly to the executive department head, and who is the sole such representative for the entire department. For the purpose of a denial of coverage under this subpart, *agency head* is also deemed to include the designated representative of the *agency head,* as defined in the first sentence of this definition, at any level within the agency.

* * * * *

3. Amend § 831.908 by revising paragraph (a) to read as follows:

§ 831.908 Mandatory separation.

(a) The mandatory separation provisions of 5 U.S.C. 8335(b) apply to all law enforcement officers and firefighters in primary and secondary positions. A mandatory separation under section 8335(b) is not an adverse action under part 752 of this chapter or a removal action under part 359 of this chapter. Section 831.502 provides the procedures for requesting an exemption from mandatory separation.

* * * * *

4. Revise § 831.910 to read as follows:

§ 831.910 Review of decisions.

(a) The final decision of an agency head or OPM issued to an employee, former employee, or survivor as the result of a request for determination filed under § 831.906 may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board.

(b) The final decision of an agency head that a break in service referred to in § 831.904(a)(2) did not begin with an involuntary separation within the meaning of 5 U.S.C. 8336(d)(1) may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board.

5. Add an undesignated center heading and a new § 831.912 to subpart I to read as follows:

Regulations Pertaining to Noncodified Statutes

§ 831.912 Elections to be deemed a law enforcement officer for retirement purposes by certain police officers employed by the Metropolitan Washington Airports Authority (MWAA).

(a) *Who may elect.* Metropolitan Washington Airports Authority (MWAA) police officers employed as members of the MWAA police force as of December 21, 2000, who are covered by the provisions of the Civil Service Retirement System by 49 U.S.C. 49107(b) may elect to be deemed a law enforcement officer for retirement purposes and have past service as a member of the MWAA and Federal Aviation Administration police forces credited as law enforcement officer service.

(b) *Procedure for making an election.* Elections by an MWAA police officer to be treated as a law enforcement officer for retirement purposes must be made in writing to the MWAA and filed in the employee's personnel file in accordance with procedures established by OPM in consultation with the MWAA.

(c) *Time limit for making an election.* An election under paragraph (a) of this section must be made either before the

MWAA police officer separates from service with the MWAA or July 25, 2002.

(d) *Effect of an election.* An election under paragraph (a) of this section is effective on the beginning of the first pay period following the date of the MWAA police officer's election.

(e) *Irrevocability.* An election under paragraph (a) of this section becomes irrevocable when received by the MWAA.

(f) *Employee payment for past service.* (1) An MWAA police officer making an election under this section must pay an amount equal to the difference between law enforcement officer retirement deductions and retirement deductions actually paid by the police officer for the police officer's past police officer service with the Metropolitan Washington Airports Authority and Federal Aviation Administration. The amount paid under this paragraph shall be computed with interest in accordance with 5 U.S.C. 8334(e) and paid to the MWAA prior to separation.

(2) Starting with the effective date under paragraph (d) of this section, the MWAA must make deductions and withholdings from the electing MWAA police officer's base pay in accordance with 5 CFR 831.907.

(g) *Employer contributions.* (1) Upon the police officer's payment for past service credit under paragraph (f) of this section, the MWAA must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the additional agency retirement contribution amounts required for the police officer's past service, plus interest.

(2) Starting with the effective date under paragraph (d) of this section, the MWAA must make agency contributions for the electing police officer in accordance with 5 CFR 831.907.

(h) *Mandatory Separation.* (1) An MWAA police officer who elects to be treated as a law enforcement officer for CSRS retirement purposes is subject to the mandatory separation provisions of 5 U.S.C. 8335(b) and 5 CFR 831.502(a).

(2) The President and Chief Operating Officer of the MWAA is deemed to be the head of an agency for the purpose of exempting an MWAA police officer from mandatory separation in accordance with the provisions of 5 U.S.C. 8335(b) and 5 CFR 831.502.

(i) *Reemployment.* An MWAA police officer who has been mandatorily separated under 5 U.S.C. 8335(b) is not barred from reemployment after age 60 in any position except a CSRS primary or secondary law enforcement officer position or a FERS rigorous law or secondary enforcement officer position. Service by a reemployed former MWAA police officer who retired under 5 U.S.C. 8336(c) is not covered by the provisions of 5 U.S.C. 8336(c).

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

6. The authority citation for Part 842 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 842.107 also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 842.107 also issued under section 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and section 7001 of Pub. L. 105–174, 112 Stat. 58, as amended by section 651 of Pub. L. 106–58, 113 Stat. 430; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under section 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under section 4005 of Pub. L. 101–239, 103 Stat. 2106 and section 7001 of Pub. L. 101–508, 104 Stat. 1388; subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under section 636 of H.R. 5658, incorporated by reference in Pub. L. 106–554, 114 Stat. 2763, and published as Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–125.

Subpart H—Law Enforcement Officers, Firefighters, and Air Traffic Controllers

7. Amend § 842.802 by revising the definition of *agency head* to read as follows:

§ 842.802 Definitions.

* * * * *

Agency head means, for the executive branch agencies, the head of an executive agency as defined in 5 U.S.C. 105; for the legislative branch, the Secretary of the Senate, the Clerk of the House of Representatives, or the head of any other legislative branch agency; for the judicial branch, the Director of the Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For the purpose of an approval of coverage under this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. 101, except that the designated representative must be a department headquarters-level official who reports directly to the executive department head, and who is the sole such representative for the entire department. For the purpose of a denial of coverage under this subpart, *agency head,* as defined in the first sentence of this definition, at any level within the agency.

* * * * *

8. Revise § 842.807 to read as follows:

§ 842.807 Review of decisions.

(a) The final decision of an agency head denying an individual's request for approval of a position as a rigorous, secondary, or air traffic controller position made under § 842.804(c) may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board.

(b) The final decision of an agency head denying an individual coverage while serving in an approved secondary position because of failure to meet the conditions in § 842.803(b) may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board.

9. Add an undesignated center heading and new § 842.810 to subpart H to read as follows:

Regulations Pertaining to Noncodified Statutes

§ 842.810 Elections to be deemed a law enforcement officer for retirement purposes by certain police officers employed by the Metropolitan Washington Airports Authority (MWAA).

(a) *Who may elect.* Metropolitan Washington Airports Authority (MWAA) police officers employed as members of the MWAA police force as of December 21, 2000, who are covered by the provisions of the Federal Employees Retirement System by 49 U.S.C. 49107(b) may elect to be deemed a law enforcement officer for retirement purposes and have past service as a member of the MWAA and Federal Aviation Administration police forces credited as law enforcement officer service.

(b) *Procedure for making an election.* Elections by an MWAA police officer to be treated as a law enforcement officer for retirement purposes must be made in writing to the MWAA and filed in the employee's personnel file in accordance with procedures established by OPM in consultation with the MWAA.

(c) *Time limit for making an election.* An election under paragraph (a) of this section must be made either before the MWAA police officer separates from service with the MWAA or July 25, 2002, whichever occurs first.

(d) *Effect of an election.* An election under paragraph (a) of this section is effective on the beginning of the first pay period following the date of the MWAA police officer's election.

(e) *Irrevocability.* An election under paragraph (a) of this section becomes irrevocable when received by the MWAA.

(f) *Employee payment for past service.* (1) An MWAA police officer making an election under this section must pay an amount equal to the difference between law enforcement officer retirement deductions and retirement deductions actually paid by the police officer for the police officer's past police officer service with the Metropolitan Washington Airports Authority and Federal Aviation Administration. The amount paid under this paragraph shall be computed with interest in accordance with 5 U.S.C. 8334(e) and paid to the MWAA prior to separation.

(2) Starting with the effective date under paragraph (d) of this section, the MWAA must make deductions and withholdings from the electing MWAA police officer's base pay in accordance with 5 CFR 832.805.

(g) *Employer contributions.* (1) Upon the police officer's payment for past service credit under paragraph (f) of this section, the MWAA must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the additional agency retirement contribution amounts required for the police officer's past service, plus interest.

(2) Starting with the effective date under paragraph (d) of this section, the MWAA must make agency contributions for the electing police officer in accordance with 5 CFR 842.805.

(h) *Mandatory Separation.* (1) An MWAA police officer who elects to be treated as a law enforcement officer for FERS retirement purposes is subject to the mandatory separation provisions of 5 U.S.C. 8425(b) and 5 CFR 831.502.

(2) The President and Chief Operating Officer of the MWAA is deemed to be the head of an agency for the purpose of exempting an MWAA police officer from mandatory separation in accordance with the provisions of 5 U.S.C. 8425(b) and 5 CFR 831.502(b)(1).

(i) *Reemployment.* An MWAA police officer who has been mandatorily separated under 5 U.S.C. 8425(b) is not barred from reemployment in any position except a FERS rigorous or secondary law enforcement officer position after age 60. Service by a reemployed former MWAA police officer who retired under 5 U.S.C. 8412(d) is not covered by the provisions of 5 U.S.C. 8412(d).

[FR Doc. 01–18530 Filed 7–24–01; 8:45 am]

BILLING CODE 6325–50–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 20

RIN 0551–AA51

Export Sales Reporting Requirements

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Export Sales Reporting Requirements Regulation to add certain beef to the list of commodities subject to this Regulation. Under this final rule, exporters are required to report on a weekly basis information concerning the quantity, country of destination, and marketing period of shipment for their export sales. Information collected will be aggregated and included in the weekly ''U.S. Export Sales'' report published by the Foreign Agricultural Service (FAS).

DATES: The final rule is effective August 24, 2001.

FOR FURTHER INFORMATION CONTACT: David Williams, Import Policies and Programs Division, Stop 1021, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, D.C. 20250–1021, or telephone at (202) 720–3273, or e-mail at WilliamsDJ@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12372

This program is not subject to the provision of Executive Order 12372, which requires intergovernmental consultation with State or local officials (See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988. The provisions of this final rule will not have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. This final rule will not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. It has been determined significant for the purposes of E.O. 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

This final rule should not have a significant economic impact on a substantial number of small entities. Although there are exporters of beef and beef products that operate small businesses, the data required under the final rule are routinely maintained during the normal course of export sales contracting business activity. A copy of this final rule has been sent to the Chief Counsel, Office of Advocacy, U.S. Small Business Administration.

Paperwork Reduction Act

In accordance with provisions of the Paperwork Reduction Act of 1995, the Department of Agriculture (Department) submitted a revised information collection package to OMB (OMB control number 0551–0007) to support the proposed rule. The proposed rule, published on March 3, 2000 (65 FR 11483–11485), required export sales reporting for fresh, chilled, or frozen muscle cuts of beef, and fresh, chilled, or frozen muscle cuts of pork. Since the final rule does not include pork, the Department will request a revision of the information collection to support the final rule.

The Department is required under section 913(b)(1) of Pub. L. 106–78 (the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000), to establish a streamlined electronic system to collect export sales information and data for muscle cuts of meat food products in the least intrusive manner possible. Prior to establishing the electronic system, the Department will issue a **Federal Register** notice soliciting public comments on the requested revision of the information collection, and on the electronic forms and program developed by the Department to provide exporters the opportunity to submit export sales reports for beef electronically. The Department will also request OMB approval of forms that are being developed for electronic submission of export sales reports for fresh, chilled, or frozen muscle cuts of beef. All public comments received with respect to export sales reporting for beef will be

considered prior to implementation of an electronic reporting system, and will also become a matter of public record. Copies of the information collection may be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568 or e-mail at Chisley@fas.usda.gov.

Background

Authority

Section 602 of the Agricultural Trade Act of 1978, as amended, requires the reporting of information pertaining to the contract for export sale of certain specified agricultural commodities and other commodities that may be designated by the Secretary. In accordance with § 602, individual weekly reports submitted shall remain confidential and shall be compiled and published in compilation form each week following the week of reporting. Any person who knowingly fails to make a report shall be fined not more than $25,000 or imprisoned for not more than one year, or both.

Regulations at 7 CFR part 20 implement the reporting requirements, and prescribe a system for reporting information pertaining to contracts for export sales. Appendix 1 to the Regulation lists all commodities that are subject to the export sales reporting requirements. Section 921 of Pub. L. 106–78 amended § 602(a)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a)(1)) by adding ''beef'' to the list of specified commodities for which all exporters shall report weekly export sales reporting information.

Export Sales Reporting Requirement for Meat

An Advance Notice of Proposed Rulemaking (ANPR) was published on November 14, 1996 (61 FR 58343–58345) requesting public comments on a proposal to amend 7 CFR part 20 to require weekly export sales reporting for meat and meat products. In response to the ANPR, 57 submissions were received from firms, trade associations, family farms, and interested parties. The majority of the submission (36) were from the poultry industry opposing export sales reporting for poultry and poultry products. Most submissions stated that export sales reporting would be of limited benefit in an industry where there is vertical integration and widespread use of grower contracts. In the poultry sector, contract growers provide labor, and their remuneration is not tied to export sales, but to such factors as feed conversion ratios and mortality rates. Poultry exporters reasoned that reporting costs would outweigh benefits that may be provided to growers. Submissions from the beef and pork industries generally supported export sales reporting as a means of obtaining accurate and timely data on export shipments and export sales.

The proposed rule, published on March 3, 2000 (65 FR 11483–11485), proposed that 7 CFR part 20 be amended to require weekly export sales reporting for fresh, chilled, or frozen muscle cuts of beef, and for fresh, chilled or frozen muscle cuts of pork. The Department received 10 submissions in response to the **Federal Register** notice. Of these submissions, eight strongly opposed export sales reporting for pork, and two submissions (from outside the pork industry) supported the concept of export sales reporting for beef and pork (one recommended more detailed reporting). The major concerns about extending coverage of the Regulation to pork were that the data required would exceed the level of detail and specific sales information needed to ascertain market conditions for live hogs and pork products; valuable market information would be provided to global competitors; and incentives for innovation and aggressive marketing by U.S. pork exporters would be removed. In addition, since pork customers often have precise demands for quality, trimmings, and cutting specifications, pork exports are often specialized and processed under labor-intensive, highly proprietary programs. Release of such information to foreign competitors could result in lower revenue for U.S. products sold abroad, and increased costs for reporting could lower net return for the whole system, including producers. A few submissions also noted that the Congress had the opportunity to mandate export sales reporting for pork under § 602(a)(1) of Pub. L. 106–78 and elected not to do so. Public comments submitted in response to the proposed rule indicated that pork producers, processors, and exporters had become largely united in opposing export sales reporting. As an alternative to export sales reporting for pork, there was general agreement that implementation of a streamlined and more timely system for release of data from the existing export certificate program would provide information in a way that would not adversely affect export markets.

This final rule amends 7 CFR part 20 to add fresh, chilled, or frozen muscle cuts of beef. For all commodities subject to the weekly reporting requirement of this Regulation, information and data related to the quantity, country destinations, and marketing year of shipments are collected and released on a weekly basis reflecting the ''outstanding commitments'' of the specified commodities for export. New outstanding quantities are established each week by adding the new export sales activity to the previous outstanding balances and subtracting the current week's shipments plus downward contract adjustments. Although this is not official U.S. trade data, it is widely used as an early indicator of export activity and is available the week following the week of reporting. The addition of fresh, chilled, or frozen muscle cuts of beef to the reporting program should provide the livestock sector with quality up-to-date information and data for preparing more accurate analysis of changing market conditions and providing relevant foreign market demand information to farm-level decision makers. These timely reports should also benefit the private sector as well as the Department in preparing economic forecasts and decisions concerning an orderly flow of beef into the domestic and export markets.

Accordingly, CFR part 20, Export Sales Reporting Requirements is amended as follows:

List of Subjects in 7 CFR Part 20

Agricultural commodities, Exports, Reporting.

Final Rule

Accordingly, 7 CFR part 20 Export Sales Reporting Requirements is amended as follows:

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

Authority: 7 U.S.C. 5712.

2. Amend Appendix 1 to add the following entry, under the indicated column headings, after the entry for ''Cattle, calf, and kip, wet blues—splits, excluding grain splits.'':

Appendix 1 to Part 20—Commodities Subject to Reports, Units of Measure to Be Used in Reporting, and Beginning and Ending Dates of Marketing Years

Commodity to be reported	Units of measure to be used in reporting	Beginning of marketing year	End of marketing year
* *	* *	*	
Beef, fresh, chilled or frozen: muscle cuts of beef	Metric tons	Jan. 1	Dec. 31.

Signed at Washington, D.C. on July 18, 2001.

Mattie R. Sharpless,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 01–18548 Filed 7–24–01; 8:45 am]

BILLING CODE 3410–10–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AF94

Changes, Tests, and Experiments; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a rulemaking appearing in the **Federal Register** on February 26, 2001 (66 FR 11527). This document is necessary to correct an erroneous **Federal Register** citation.

FOR FURTHER INFORMATION CONTACT: Jayne McCausland, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, telephone 301–415–6219, e-mail: jmm@nrc.gov.

SUPPLEMENTARY INFORMATION: On page 11527, in the first column, in the Background paragraph, in the fifth line of the paragraph, ''65'' is corrected to read ''64''.

Dated at Rockville, Maryland, this 19th day of July 2001.

For the Nuclear Regulatory Commission.

Alzonia W. Shepard,

Acting Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 01–18519 Filed 7–24–01; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

RIN 3245–AE45

Military Reservist Economic Injury Disaster Loans

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is finalizing its regulations implementing a new program authorized by the Veterans Entrepreneurship and Small Business Development Act of 1999. Under this new program, SBA will make a low interest, fixed rate loan available to a small business employing a military reservist if the reservist is called up to active military duty during a period of military conflict, and he or she is an essential employee critical to the success of the business' daily operation whose call-up has caused or will cause the business substantial economic injury.

DATES: This rule is effective August 24, 2001.

FOR FURTHER INFORMATION CONTACT: Herbert Mitchell, Associate Administrator, Office of Disaster Assistance, 202–205–6734.

SUPPLEMENTARY INFORMATION: With this rule, SBA finalizes its proposed regulation implementing the Military Reservist Economic Injury Disaster Loan Program (program) by adding a new subpart F to our Disaster Loan Program regulations. The final rule will clarify the program's requirements, application and loan approval process.

The Military Reservist Economic Injury Disaster Loan Program was authorized by Public Law 106–50, enacted on August 17, 1999. The program will allow SBA to make economic injury disaster loans (EIDL) to small businesses employing military reservists if those employees are called up to active duty during a period of military conflict (call-up) and those employees are essential to the success of the small businesses' daily operations.

On July 13, 2000, SBA published a proposed rule in the **Federal Register** requesting public comments on our proposals for implementing the Military Reservist Economic Injury Disaster Loan Program (65 FR 43261). SBA received no comments on the proposed rule during the 30-day public comment period and therefore, is finalizing the proposed rule without substantive change. SBA did make a few minor textual and grammatical changes to clarify the meaning of several provisions.

Under the final rule, to qualify for the Military Reservist EIDL, a business will be required to show that the call-up of an essential employee has caused or will cause the business substantial economic injury. The interest rate for a Military Reservist EIDL will be the same as for other EIDL assistance. SBA calculates interest rates quarterly. At the present time the statutory interest rate may not exceed 4 percent. The interest rate in effect at the time the Military Reservist EIDL application is filed will be the fixed rate for the entire term of the loan.

Section 123.500 contains program definitions conforming with those in Public Law 106–50. SBA deleted ''affiliate'' from the definition of principal owner. SBA believes the interests of the Military Reservist EIDL program are sufficiently protected if SBA includes any person or entity owning 20 percent or more of the business in its eligibility determination.

Section 123.501 sets out the program eligibility requirements including a reference to an ''eligible small business as defined in 13 CFR Part 121.'' While Public Law 106–50 describes an eligible or ''qualified borrower'' as a small business that ''employs'' an eligible reservist, Congress' intent was that this program also include assistance to a small business sole proprietor who is an essential employee. See S. Rep. No. 254, 106th Cong., 1st Sess. 4 (1999). Therefore, SBA will include such a category in the program eligibility requirements. In addition, this section includes the legislative requirement that the program apply only to military

conflicts occurring or ending on or after March 24, 1999.

Under § 123.502 of this rule, a small business will not be eligible to apply for a Military Reservist EIDL if it is an enterprise included in any of the categories described in §§ 123.101, 123.201, and 123.301. These sections include general ineligibility categories applying to all EIDL assistance. For example, a business will not be eligible if a principal owner of the business had been convicted, during the year preceding its application for a Military Reservist EIDL, of a felony during and in connection with a riot or civil disorder. For another example, a business will not be eligible if it is an agricultural enterprise as defined in § 123.201 of this part. SBA revised the text of § 123.502(n) to make it consistent with the text in § 123.301(g), under which a business is ineligible for assistance if teaching, instructing, counseling, or indoctrinating religion or religious beliefs is its principal activity, not merely one of several business activities.

Under § 123.503 of this rule, a business cannot apply for a Military Reservist EIDL in anticipation of a call-up to active duty. It can only apply during a period beginning on the date the essential employee receives a call-up order and ending 90 days after the date the employee is discharged or released from active duty. The call-up of the essential employee will be the event that triggers SBA's assistance under this program.

Under § 123.504, the business must submit a copy of the reservist's call-up orders to show compliance with the statutory requirements described above. Also under this section, as a part of the application, the business owner must certify that the reservist is an essential employee, and must detail the employee's duties and responsibilities. In addition, the employee must indicate in writing whether he or she concurs with such assessment. The application must also support a determination by SBA that the essential employee's absence will result in substantial economic injury to the business.

SBA recognizes that the owner of a small business may be an essential employee of that business and may be called up and start active duty before applying for a Military Reservist EIDL. Accordingly, SBA will accept a program application from a representative of the reservist if that representative has power of attorney to act on the behalf of the reservist for such matters.

SBA offers this program, in part, to support individuals who choose to serve the United States as military reservists. These individuals should not be put in a position where a call to military service jeopardizes their employment situation. Therefore, under this rule, SBA will require that the business offer the essential employee the same or similar job upon return from active duty.

SBA changed the text of § 123.506 from the proposed rule to clarify that the amount an eligible small business may borrow from SBA is equal to the economic injury suffered or likely to be suffered by the applicant until normal operations resume because of the absence of the essential employee. The maximum amount an applicant may borrow is $1,500,000, regardless of the number of essential employees called to active duty. The measure of economic injury is the amount necessary to meet the business's obligations as they mature, pay its ordinary and necessary expenses, and enable it to market, produce or provide products or services ordinarily marketed, produced, or provided by the business, which cannot be done as a result of the essential employee's active military service. It may not include amounts the business, together with its affiliates and principal owners, could provide without undue hardship. SBA may consider waiving this loan limit if it determines that the conditions identified in § 123.507 are satisfied.

Under § 123.509, this rule sets forth prohibitions on the use of loan proceeds. For example, EIDL funds could not be used to:

(1) Refinance debt which the business incurred before the call up of the essential employee;

(2) Make payments on loans owned by SBA or another federal agency or a Small Business Investment Company licensed under the Small Business Investment Act;

(3) Pay any obligations resulting from a tax penalty or any non-tax criminal fine, or penalty for non-compliance with a law, regulation, or order of a federal, state, regional, or local agency or similar matter;

(4) Repair physical damage; or

(5) Pay dividends or other disbursements to owners, partners, officers or stockholders, except for reasonable remuneration directly related to their performance of services for the business.

Compliance With Executive Orders 12866, 12988, 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. ch. 35)

The Office of Management and Budget (OMB) reviewed this rule as a ''significant'' regulatory action under Executive Order 12866.

SBA has determined that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. From October 1997 to October 1999, only 19,592 military reservists were called up for active duty. This figure averages just under 10,000 call-ups per year. Further, 52 percent of the non-farm workforce of this country is employed by businesses that employ 500 or fewer persons. Applying this percentage to the average number of call-ups for the past years indicates that 5,200 of the call-ups affected non-farm businesses with less than 500 employees. Of this figure, SBA estimates that 30 percent of these individuals may be essential employees. This results in an estimate of approximately 1,590 businesses that could be affected by this proposed rule. SBA does not believe that this is a substantial number of small businesses. Furthermore, SBA has taken steps to simplify the loan documentation process for small business owners and permits small business owners to self-certify the designation of essential employees. These steps will substantially reduce any economic impact on small business owners applying for assistance.

For the purposes of the Paperwork Reduction Act, 44 U.S.C. ch. 35, SBA has submitted the Military Reservist Economic Injury Disaster Loan Program Loan Application (application) to OMB for review. SBA received no comments from the public regarding the proposed application. The application will allow small businesses to apply for Military Reservist EIDLs and will provide SBA with the information necessary to evaluate applicants. The application will request such information as name, address, type of business, management information, organization type, name of essential employee who is a military reservist employed by the small business, explanation of the designation of the employee as ''essential'' and financial information to permit SBA to determine repayment ability.

An applicant will complete an application each time it applies for a Military Reservist Economic Injury Disaster Loan. SBA estimates that the time necessary to complete an application for the Military Reservist Economic Injury Disaster Loan Program will average 2 hours.

In addition, SBA will collect ordinary and usual financial statements before making subsequent loan disbursements under the Military Reservist EIDL

Program (see § 123.511). This information will allow SBA to assess the continued need for disbursements under this program.

For purposes of Executive Order 13132, SBA has determined that this rule has no federalism implications.

For purposes of Executive Order 12988, SBA certifies that this rule is drafted, to the extent practicable, to be in accordance with the standards set forth in section 3 of that Order.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, SBA amends 13 CFR part 123 as follows:

PART 123—DISASTER LOAN PROGRAM

1. The authority citation for part 123 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(b), 636(c) and 636(f); Pub. L. 102–395, 106 Stat. 1828, 1864; and Pub. L. 103–75, 107 Stat. 739, Pub. L. 106–50, 113 Stat. 245.

2. In part 123 designate the existing centercheadings as subpart A through subpart E, respectively, and add new subpart F to read as follows:

Subpart F—Military Reservist Economic Injury Disaster Loans

* * * * *

Sec.

123.500 Definitions.
123.501 When is your business eligible to apply for a Military Reservist Economic Injury Disaster Loan (EIDL)?
123.502 When is your business ineligible to apply for a Military Reservist EIDL?
123.503 When can you apply for a Military Reservist EIDL?
123.504 How do you apply for a Military Reservist EIDL?
123.505 What if you are both an essential employee and the owner of the small business and you started active duty before applying for a Military Reservist EIDL?
123.506 How much can you borrow under the Military Reservist EIDL Program?
123.507 Under what circumstances will SBA consider waiving the $1.5 million loan limit?
123.508 How can you use Military Reservist EIDL funds?
123.509 What can't you use Military Reservist EIDL funds for?
123.510 What if you don't use your Military Reservist EIDL funds as authorized?
123.511 How will SBA disburse Military Reservist EIDL funds?
123.512 What is the interest rate on a Military Reservist EIDL?

Subpart F—Military Reservist Economic Injury Disaster Loans

§ 123.500 Definitions.

The following terms have the same meaning wherever they are used in this subpart:

(a) *Essential employee* is an individual (whether or not an owner of a small business) whose managerial or technical expertise is critical to the successful day-to-day operations of a small business.

(b) *Military reservist* is a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

(c) *Period of military conflict* means:

(1) A period of war declared by the Congress,

(2) A period of national emergency declared by the Congress or by the President, or

(3) A period of contingency operation, as defined in 10 U.S.C. 101(a).

(d) *Principal owner* is a person or entity which owns 20 percent or more of the small business.

(e) *Substantial economic injury* means an economic harm to the small business such that it cannot:

(1) Meet its obligations as they mature,

(2) Pay its ordinary and necessary operating expenses, or

(3) Market, produce or provide a product or service ordinarily marketed, produced or provided by the business. Loss of anticipated profits or a drop in sales is not considered substantial economic injury for this purpose.

§ 123.501 When is your business eligible to apply for a Military Reservist Economic Injury Disaster Loan?

Your business is eligible to apply for a Military Reservist EIDL if:

(a) It is a small business as defined in 13 CFR part 121,

(b) The owner of the business is a military reservist and an essential employee or the business employs a military reservist who is an essential employee,

(c) The essential employee has been called-up to active military duty during a period of military conflict existing on or after March 24, 1999, and

(d) The business has suffered or is likely to suffer substantial economic injury as a result of the absence of the essential employee.

§ 123.502 When is your business ineligible to apply for a Military Reservist EIDL?

Your business is ineligible for a Military Reservist EIDL if it, together with its affiliates, is subject to any of the following conditions:

(a) Any of your business' principal owners has been convicted, during the past year, of a felony during and in connection with a riot or civil disorder;

(b) You have assumed the risk associated with employing the military reservist, as determined by SBA (for example, hiring the ''essential employee'' after the employee has received call-up orders or been notified that they are imminent);

(c) Any of your business' principal owners is presently incarcerated, or on probation or parole following conviction of a serious criminal offense;

(d) Your business is an agricultural enterprise. Agricultural enterprise means a business primarily engaged in the production of food and fiber, ranching and raising of livestock, aquaculture and all other farming and agriculture-related industries. (See 13 CFR 121.107, ''How does SBA determine a concern's primary industry?'') Sometimes a business is engaged in both agricultural and non-agricultural business activities. If the primary business activity of the business is not an agricultural enterprise, it may apply for a Military Reservist EIDL, but loan proceeds may not be used, directly or indirectly, for the benefit of the agricultural enterprises;

(e) Your business is engaged in any illegal activity;

(f) Your business is a government owned entity (except for a business owned or controlled by a Native American tribe);

(g) Your business presents live performances of a prurient sexual nature or derives directly or indirectly more than an insignificant gross revenue through the sale of products or services, or through the presentation of any depictions or displays, of a prurient sexual nature;

(h) Your business is engaged in lending, multi-level sales distribution, speculation, or investment (except for real estate investment with property held for commercial rental);

(i) Your business is a non-profit or charitable concern;

(j) Your business is a consumer or marketing cooperative;

(k) Your business is not a small business concern;

(l) Your business derives more than one-third of its gross annual revenue from legal gambling activities;

(m) Your business is a loan packager which earns more than one-third of its gross annual revenue from packaging SBA loans;

(n) Your business' principal activity is teaching, instructing, counseling, or indoctrinating religion or religious

beliefs, whether in a religious or secular setting; or

(o) Your business' principal activity is political or lobbying activities.

§ 123.503 When can you apply for a Military Reservist EIDL?

Your small business can apply for a Military Reservist EIDL any time beginning on the date your essential employee receives official call-up orders and ending 90 days after the date the essential employee is discharged or released from active duty.

§ 123.504 How do you apply for a Military Reservist EIDL?

To apply for a Military Reservist EIDL you must complete a SBA Military Reservist EIDL application package (SBA Form 5R and supporting documentation *can be obtained through SBA's Disaster Area Office*) including:

(a) A copy of the essential employee's official call-up orders for active duty showing the date of call up, and if known, the date of release from active duty;

(b) A statement from the business owner that the reservist is essential to the successful day-to-day operations of the business (detailing the employee's duties and responsibilities and explaining why these duties and responsibilities can't be completed in the essential employee's absence);

(c) A certification by the essential employee supporting that he or she concurs with the business owner's statement as described in paragraph (b) of this section;

(d) A written explanation and financial estimate of how the call-up of the essential employee has or will result in economic injury to your business;

(e) The steps your business is taking to alleviate the economic injury; and

(f) The business owners' certification that the essential employee will be offered the same or a similar job upon the employee's return from active duty.

§ 123.505 What if you are both an essential employee and the owner of the small business and you started active duty before applying for a Military Reservist EIDL?

If you are both an essential employee and the owner of the small business and you started active duty before applying for an Military Reservist EIDL, a person who has a power of attorney with the authority to borrow and make other related commitments on your behalf, may complete and submit the EIDL loan application package for you.

§ 123.506 How much can you borrow under the Military Reservist EIDL Program?

You can borrow an amount equal to the substantial economic injury you have suffered or are likely to suffer until normal operations resume as a result of the absence of one or more essential employees called to active duty, up to a maximum of $1.5 million

§ 123.507 Under what circumstances will SBA consider waiving the $1.5 million loan limit?

SBA will consider waiving the $1.5 million dollar limit if you can certify to the following conditions and SBA approves of such certification based on the information supplied in your application:

(a) Your small business is a major source of employment. A major source of employment:

(1) Employs 10 percent or more of the work force within the commuting area of the geographically identifiable community (no larger than a county) in which the business employing the essential employee is located, provided that the commuting area does not extend more than 50 miles from such community; or

(2) Employs 5 percent of the work force in an industry within such commuting area and, if the small business is a non-manufacturing small business, employs no less than 50 employees in the same commuting area, or if the small business is a manufacturing small business, employs no less than 150 employees in the commuting area; or

(3) Employs no less than 250 employees within such commuting area;

(b) Your small business is in imminent danger of going out of business as a result of one or more essential employees being called up to active duty during a period of military conflict, and a loan in excess of $1.5 million is necessary to reopen or keep open the small business; and

(c) Your small business has used all reasonably available funds from the small business, its affiliates, its principal owners and all available credit elsewhere to alleviate the small business' economic injury. Credit elsewhere means financing from non-Federal sources on reasonable terms given your available cash flow and disposable assets which SBA believes your small business, its affiliates and principal owners could obtain.

§ 123.508 How can you use Military Reservist EIDL funds?

Your small business can use Military Reservist EIDL to:

(a) Meet obligations as they mature,

(b) Pay ordinary and necessary operating expenses, or

(c) Enable the business to market, produce or provide products or services ordinarily marketed, produced, or provided by the business, which cannot be done as a result of the essential employee's military call-up.

§ 123.509 What can't you use Military Reservist EIDL funds for?

Your small business can not use Military Reservist EIDL funds for purposes described in § 123.303(b) (See § 123.303, '' How can my business spend my economic injury disaster loan?'').

§ 123.510 What if you don't use your Military Reservist EIDL funds as authorized?

If your small business does not use Military Reservist EIDL funds as authorized by § 123.508, then § 123.9 applies (See § 123.9, ''What happens if I don't use loan proceeds for the intended purpose?'').

§ 123.511 How will SBA disburse Military Reservist EIDL funds?

SBA will disburse your funds in quarterly installments (unless otherwise specified in your loan authorization agreement) based on a continued need as demonstrated by comparative financial information. On or about 30 days before your scheduled fund disbursement, SBA will request ordinary and usual financial statements (including balance sheets and profit and loss statements). Based on this information, SBA will assess your continued need for disbursements under this program. Upon making such assessment, SBA will notify you of the status of future disbursements.

§ 123.512 What is the interest rate on a Military Reservist EIDL?

The interest rate on a Military Reservist EIDL will be 4 percent per annum or less. SBA will publish the interest rate quarterly in the **Federal Register.**

Dated: April 17, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–18365 Filed 7–24–01; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–08–AD; Amendment 39–12341; AD 2001–15–07]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, and –320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–200, –300, and –320 series airplanes, that requires modifying the wiring of the starting rotary switch. The actions specified by this AD are intended to prevent the loss of electrical power supply of the direct current (DC) emergency and standby buses, which could result in the loss of some electrical loads and the consequent display of erroneous information to the flight crew. This action is intended to address the identified unsafe condition.

DATES: Effective August 29, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 29, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200, –300, and –320 series airplanes was published in the **Federal Register** on April 25, 2001 (66 FR 20768). That action proposed to require modifying the wiring of the starting rotary switch.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 60 Model ATR42–200, –300, and –320 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $14,400, or $240 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–15–07 Aerospatiale: Amendment 39–12341. Docket 2001–NM–08–AD.

Applicability: Model ATR42–200, –300, and –320 airplanes, certificated in any category, except those modified in accordance with Modification 3047 or Avions de Transport Regional Service Bulletin ATR42–80–0001.

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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of electrical power supply of the direct current (DC) emergency and standby buses, which could result in the loss of some electrical loads and the consequent display of erroneous information to the flight crew, accomplish the following:

Modification

(a) Within 6 months after the effective date of this AD, modify the wiring of the starting rotary switch, in accordance with Avions de Transport Regional Service Bulletin ATR42–80–0001, Revision 2, dated November 15, 2000.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that

provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(d) The modification shall be done in accordance with Avions de Transport Regional Service Bulletin ATR42–80–0001, Revision 2, dated November 15, 2000, which includes the specified list of effective pages in Table 1:

TABLE 1.—LIST OF EFFECTIVE PAGES

Page No.	Revision level shown on page	Date shown on page
1–6	2	November 15, 2000.
7, 9–13 ...	Original ...	March 19, 1992.
8	1	May 11, 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–454–081(B), dated November 15, 2000.

Effective Date

(e) This amendment becomes effective on August 29, 2001.

Issued in Renton, Washington, on July 16, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18258 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–366–AD; Amendment 39–12338; AD 2001–15–04]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Dornier Model 328–100 series airplanes, that currently requires repetitive inspections of the left and right roll spoiler actuators to check for signs of leakage and deformation of the housing, repetitive inspections of the gap between the left roll spoiler actuator housing cap and the actuator housing, repetitive torque checks of the left roll spoiler actuator housing cap attachment screws, and corrective action, if necessary. This amendment requires replacement of the double shuttle valves in the roll spoiler actuators with new improved valves, which constitutes terminating action for the requirements of this AD. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent oil leakage from the roll spoiler actuators, which could result in incorrect roll spoiler operation and reduced controllability of the airplane.

DATES: Effective August 29, 2001.

The incorporation by reference of Dornier Service Bulletin SB–328–27–310, dated June 10, 2000, as listed in the regulations, is approved by the Director of the Federal Register as of August 29, 2001.

The incorporation by reference of Dornier Alert Service Bulletin ASB–328–27–025, Revision 1, dated September 22, 1999, as listed in the regulations, was previously approved by the Director of the Federal Register as of December 7, 1999 (64 FR 59117, November 2, 1999).

ADDRESSES: The service information referenced in this AD may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 99–22–15, amendment 39–11393 (64 FR 59117, November 2, 1999), which is applicable to all Dornier Model 328–100 series airplanes, was published in the **Federal Register** on May 4, 2001 (66 FR 22486). The action proposed to continue to require repetitive inspections of the left and right roll spoiler actuators to check for signs of leakage and deformation of the housing, repetitive inspections of the gap between the left roll spoiler actuator housing cap and the actuator housing, repetitive torque checks of the left roll spoiler actuator housing cap attachment screws, and corrective action, if necessary. The action also proposed to add a requirement to replace the double shuttle valves in the roll spoiler actuators with new improved valves, which would constitute terminating action for the requirements of this AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter, an operator of an airline, indicates that it has already met the proposed requirements.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 50 Dornier Model 328–100 series airplanes of U.S. registry that will be affected by this AD.

The repetitive inspections and checks that are currently required by AD 99–22–15 take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these inspections and checks on U.S. operators is estimated to be $9,000, or $180 per airplane.

The replacement that is added by this new AD will take approximately 1 work

hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided at no charge to operators. Based on these figures, the cost impact of the replacement added by this AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11393 (64 FR 59117, November 2, 1999), and by adding a new airworthiness directive (AD), amendment 39–12338, to read as follows:

2001–15–04 Dornier Luftfahrt GMBH: Amendment 39–12338. Docket 2000-NM–366–AD. Supersedes AD 99–22–15, Amendment 39–11393.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent oil leakage from the roll spoiler actuators, which could result in incorrect roll spoiler operation and reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 99–22–15

(a) Within 14 days after December 7, 1999 (the effective date of AD 99–22–15, amendment 39–11393), accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD on the left and right roll spoiler actuators, in accordance with Dornier Alert Service Bulletin ASB–328–27–025, Revision 1, dated September 22, 1999. Thereafter, repeat the inspections required by paragraphs (a)(1) and (a)(2) of this AD at intervals not to exceed 400 flight hours.

(1) Perform a detailed inspection to detect leakage of the area around the actuator cap and housing of the roll spoiler actuators. If leakage is found, prior to further flight, replace the actuator and the double shuttle valve with new or serviceable parts.

(2) Perform a detailed inspection to detect flatness of the surface of the cap of the roll spoiler actuators. If the cap surface is not flat, prior to further flight, replace the actuator and the double shuttle valve with new or serviceable parts.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

(b) Within 14 days after December 7, 1999, accomplish the requirements of paragraphs (b)(1) and (b)(2) of this AD on the left roll spoiler actuator, in accordance with Dornier Alert Service Bulletin ASB–328–27–025, Revision 1, dated September 22, 1999. Thereafter, repeat the inspections required by paragraphs (b)(1) and (b)(2) of this AD at intervals not to exceed 400 flight hours.

(1) Perform a detailed inspection to detect a gap between the cap of the roll spoiler actuator and the actuator housing. If any gap exists, prior to further flight, replace the actuator and the double shuttle valve with new or serviceable parts.

(2) Perform a torque check of the housing cap attachment screws. If the torque is within the limits specified by the alert service bulletin, prior to further flight, torque the screws to 17.7 lb-in, in accordance with the alert service bulletin. If the torque is outside the limits specified by the alert service bulletin, prior to further flight, replace the left roll spoiler actuator and double shuttle valve with new or serviceable parts, in accordance with the alert service bulletin.

(c) If any left roll spoiler actuator is replaced during any inspection required by paragraph (b)(1) or (b)(2) of this AD, prior to further flight, accomplish the requirements of paragraphs (b)(1) and (b)(2) for the right roll spoiler actuator.

Note 3: Accomplishment of the inspections required by paragraphs (a) and (b) of this AD prior to the effective date of this AD, in accordance with Dornier Alert Service Bulletin ASB–328–27–025, dated October 16, 1998, is acceptable for compliance with the initial inspections required by those paragraphs.

New Actions Required by This AD

Replacement

(d) Within 90 days after the effective date of this AD: Replace the double shuttle valves with new improved double shuttle valves, in accordance with Dornier Service Bulletin SB–328–27–310, dated June 10, 2000. Accomplishment of this action constitutes terminating action for the requirements of this AD.

Spares

(e) As of the effective date of this AD, no person shall install a double shuttle valve having any of the following part numbers on any airplane:

ZCV 193
ZCV 193–1 Revision Letter J
ZCV 193 MOD
ZCV 193–1
ZCV 193–I MOD
ZCV 193–2 MOD
ZCV 193–3
ZCV 193–4
ZCV 193–5

Alternative Methods of Compliance

(f)(1) 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, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

(2) Alternative methods of compliance, approved previously in accordance with AD 99–22–15, amendment 39–11393, are approved as alternative methods of compliance with the requirements of paragraphs (a), (b) and (c) of this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(h) The actions shall be done in accordance with Dornier Alert Service Bulletin ASB–328–27–025, Revision 1, dated September 22, 1999; and Dornier Service Bulletin SB–328–27–310, dated June 10, 2000.

(1) The incorporation by reference of Dornier Service Bulletin SB–328–27–310, dated June 10, 2000 is approved by the Director of the Federal Register as of August 29, 2001.

(2) The incorporation by reference of Dornier Alert Service Bulletin ASB–328–27–025, Revision 1, dated September 22, 1999 was previously approved by the Director of the Federal Register as of December 7, 1999 (64 FR 59117, November 2, 1999).

(3) Copies may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in German airworthiness directive 1998–479/3, of which the effective date is October 5, 2000.

Effective Date

(i) This amendment becomes effective on August 29, 2001.

Issued in Renton, Washington, on July 16, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18255 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–203–AD; Amendment 39–12343; AD 2001–15–09]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, –320, and –500 Series Airplanes; and Model ATR72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–200, –300, –320, and –500 series airplanes; and Model ATR72 series airplanes; that requires replacement of the existing uplock boxes of the main and nose landing gears with modified uplock boxes. The actions specified by this AD are intended to prevent a mechanical failure of the uplock box mechanisms, which could result in failure of the associated landing gear to extend. This action is intended to address the identified unsafe condition.

DATES: Effective August 29, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 29, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200, –300, –320, and –500 series airplanes; and Model ATR72 series airplanes; was published in the **Federal Register** on April 26, 2001 (66 FR 20957). That action proposed to require replacement of the existing uplock boxes of the main and nose landing gears with modified uplock boxes.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 143 Model ATR42–200, –300, –320, and –500 series airplanes and Model ATR72 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will be supplied by the parts manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $34,320, or $240 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic

impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–15–09 Aerospatiale: Amendment 39–12343. Docket 2000–NM–203–AD.

Applicability: Model ATR42–200, –300, –320, and –500 series airplanes; and Model ATR72 series airplanes; certificated in any category; except those on which Aerospatiale Modification 05226 has been accomplished.

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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a mechanical failure of the uplock box mechanisms, which could result in failure of the associated landing gear to extend, accomplish the following:

Removal and Replacement

(a) Within 24 months after the effective date of this AD, remove and replace the three existing uplock boxes of the main and nose landing gears with modified uplock boxes in accordance with the instructions given in Avions de Transport Regional Service Bulletins ATR42–32–0090 (for Model ATR42–200, –300, –320, and –500 series airplanes) and ATR72–32–1038 (for Model ATR72 series airplanes), both dated May 19, 2000.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Avions de Transport Regional Service Bulletin ATR42–32–0090, dated May 19, 2000; and Avions de Transport Regional Service Bulletin ATR72–32–1038, dated May 19, 2000; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directives 2000–189–078(B) and 2000–190–042(B), both dated May 3, 2000.

Effective Date

(e) This amendment becomes effective on August 29, 2001.

Issued in Renton, Washington, on July 16, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18254 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–225–AD; Amendment 39–12351; AD 2001–14–51]

RIN 2120–AA64

Airworthiness Directives; General Aviation Aircraft Equipped With Certain UPS Aviation Technologies, Inc., Model Apollo SL30 Very-High-Frequency Navigation/Communication (VHF NAV/COMM) Radios

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) AD 2001–14–51 that was made available previously to all known U.S. owners and operators of General Aviation aircraft equipped with certain UPS Aviation Technologies, Inc., Model Apollo SL30 VHF NAV/COMM radios. This AD requires determination of the version of software being used by the UPS Aviation Technologies, Inc., Model Apollo SL30 VHF NAV/COMM radio, and installation of a placard to prohibit use of the radio's very-high-frequency omnirange (VOR) function for navigation, if necessary. This action is prompted by a report that, during installation of a subject radio, an installer noted that the radio was providing incorrect radial bearing information. The actions specified by this AD are intended to prevent use of incorrect bearing information by the pilot, which could result in inaccurate navigation information.

DATES: Effective July 30, 2001, to all persons except those persons to whom it was made immediately effective by emergency AD 2001–14–51, issued June 29, 2001, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before September 24, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–225–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–225–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.

Information relevant to this AD may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Susan Letcher, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2670; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On June 29, 2001, the FAA issued emergency AD 2001–14–51, which is applicable to General Aviation aircraft equipped with certain UPS Aviation Technologies, Inc., Model Apollo SL30 very-high-frequency navigation/communication (VHF NAV/COMM) radios.

That action was prompted by a report from the equipment manufacturer indicating that, during installation of a certain UPS Aviation Technologies, Inc., Model Apollo SL30 VHF NAV/COMM radio on a General Aviation aircraft, an installer noted that the radio was providing incorrect radial bearing information. Subsequent testing by the equipment manufacturer revealed that the bearing information was off by 14 degrees.

This incorrect bearing information has been attributed to an error in Digital Signal Processor (DSP) Software Version Number 1.00, as installed on Apollo SL30 VHF NAV/COMM radios having part number 430–6040–300 or 430–6040–301. If the radio receives a signal from a very-high-frequency omnirange (VOR) ground station that deviates from the standard 30-Hertz signal, the error in the software causes the radio to incorrectly decode the bearing of the station. Because the occurrence of the error is dependent on the signal coming from a given station and not on the radio itself, the pilot may not necessarily know if the bearing information is incorrect. This condition, if not corrected, could lead the pilot to use incorrect bearing information, which could result in inaccurate navigation information.

The FAA has granted field approvals for installation of these radios on various makes and models of General Aviation aircraft, so any General Aviation aircraft with a UPS Aviation Technologies, Inc., Model Apollo SL30 VHF NAV/COMM radio with the part numbers listed above may be subject to the unsafe condition addressed by AD 2001–14–51.

Explanation of Relevant Service Information

The FAA has reviewed and approved UPS Aviation Technologies, Inc., Service Bulletin SB2001–003, dated June 29, 2001. That service bulletin describes procedures for determining what version of software the Apollo SL30 VHF NAV/COMM radio is using. If the radio is using DSP Software Version Number 1.00, the service bulletin says to install a placard to inform the pilot that use of the radio's VOR function for navigation is prohibited. The placard must be installed so that it is within view of the pilot during operation of the aircraft.

Explanation of Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued emergency AD 2001–14–51 to prevent use of incorrect bearing information by the pilot, which could result in inaccurate navigation information. The AD requires determination of the version of software being used by the UPS Aviation Technologies, Inc., Model Apollo SL30 VHF NAV/COMM radio, and installation of a placard to prohibit use of the radio's VOR function for navigation, if necessary.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by making it available on June 29, 2001, to all known U.S. owners and operators of General Aviation aircraft equipped with certain UPS Aviation Technologies, Inc., Model Apollo SL30 VHF NAV/COMM radios. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Interim Action

This is considered to be interim action. The equipment manufacturer has advised that it currently is developing a software update that will positively address the unsafe condition addressed by this AD. Once this software update is developed, approved, and available, the FAA may consider additional rulemaking.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001-NM–225-AD.'' The postcard will be date-stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an

emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–14–51 UPS Aviation Technologies, Inc.: Amendment 39–12351. Docket 2001–NM–225–AD.

Applicability: All General Aviation aircraft equipped with a UPS Aviation Technologies, Inc., Model Apollo SL30 very-high-frequency navigation/communication (VHF NAV/COMM) radio having part number 430–6040–300 or 430–6040–301; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent use of incorrect bearing information by the pilot, which could result in inaccurate navigation information, accomplish the following:

Determination of Software Version

(a) Before further flight after receipt of this AD, determine what version of Digital Signal Processor (DSP) Software the UPS Aviation Technologies, Inc., Model Apollo SL30 VHF NAV/COMM radio is using, according to the following procedure:

Placing Unit In System Mode

Operation Summary (Refer to page 4 of operation manual)

Power On

Turn the SL30 on. Either turn the Power/Volume knob clockwise to turn the power on or, if installed, turn on the master switch that powers the radios. The SL30 will go through a short initialization routine and then briefly display the last VOR check date.

System Info (Refer to page 26 of operation manual)

System Info provides information about the Software versions and the Display Intensity.

1. Press SYS and turn the LARGE knob if necessary to the System Info page. Press ENT.
2. In the System Info function turn the LARGE knob to Nav Software Version.
3. Turn the SMALL knob to left (counterclockwise) to view DSP Software Version.''

Note 2: The procedure specified in paragraph (a) of this AD is identical to the ''PROCEDURE'' section of UPS Aviation Technologies, Inc., Service Bulletin SB2001–003, dated June 29, 2001.

Installation of Placard

(b) If the radio is using DSP Software Version Number 1.00, before further flight, do the actions in paragraphs (b)(1) and (b)(2) of this AD.

(1) Attach on or place near the SL30 within view of the pilot a placard that reads as follows:

''USE OF SL30 VOR FUNCTION FOR NAVIGATION PROHIBITED.''

(2) Insert a copy of this AD into the Limitations Section of the FAA-approved Airplane Flight Manual.

Spares

(c) After receipt of this AD, no one may install on any airplane a UPS Aviation Technologies, Inc., Model Apollo SL30 VHF NAV/COMM radio, having part number 430–6040–300 or 430–6040–301; unless the requirements of this AD are accomplished.

Alternative Methods of Compliance

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

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

Special Flight Permits

(e) 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.

Effective Date

(f) This amendment becomes effective on July 30, 2001, to all persons except those persons to whom it was made immediately effective by emergency AD 2001–14–51, issued on June 29, 2001, which contained the requirements of this amendment.

Issued in Renton, Washington, on July 19, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18472 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–15FR]

Establishment of Class E Airspace: Pelham Lake, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Pelham Lake, VA. Development of an Area Navigation (RNAV), Helicopter Point in Space Approach, for the Culpeper Memorial Hospital Heliport, Pelham Lake, VA has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the Culpeper Memorial Hospital Heliport.

EFFECTIVE DATE: 0901 UTC November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On May 31, 2001 a notice of proposed rulemaking proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for an RNAV, Helicopter Point in Space

Approach to the Culpeper Memorial Hospital Heliport, Pelham Lake, VA was published in the **Federal Register** (66 FR 29516–29517). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before July 2, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000 and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting Instrument Flight Rules (IFR) operations at the Culpeper Memorial Hospital Heliport, Pelham Lake, VA.

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. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Pelham Lake, VA [NEW]

Culpeper Memorial Hospital Heliport,
Pelham Lake, VA
Point in Space Coordinates
(Lat. 38°27′54″N., long. 78°01′06″W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of a Point in Space for the SIAP serving the Culpeper Memorial Hospital Heliport.

* * * * *

Issued in Jamaica, New York on July 20, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–18543 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 3711]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Application for Nonimmigrant Visa: XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, UT, 2002

AGENCY: Department of State.

ACTION: Interim Rule with Request for Comments.

SUMMARY: The United States is hosting the XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah in 2002. The processing of certain foreign nationals accredited to the Winter Games requires some temporary changes in established visa-processing procedures. These regulatory changes are designed to accommodate certain foreign-entry obligations as specified under the Olympic Charter for any country that seeks to host the Olympic Games.

DATES: *Effective date:* This rule is effective July 25, 2001.

Comment date: Written comments may be submitted on or before September 24, 2001.

ADDRESSES: Submit comments, in duplicate, to H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106; or e-mail: *odomhe@state.gov.*

FOR FURTHER INFORMATION CONTACT: Ron Acker, Visa Regulations Coordinator, Legislation and Regulations Division, Visa Office, Room L603–C, SA–1, Department of State, Washington, D.C. 20520–0106, (202) 663–1205; or e-mail: *ackerrl@state.gov.*

SUPPLEMENTARY INFORMATION:

Why Are There Special Document Entry and Visa Procedures for the Winter Olympic and Paralympic Games?

Salt Lake City, Utah will host the XIX Olympic Winter Games from February 8 through February 24, 2002 and the VIII Paralympic Winter Games from March 7 through March 16, 2002. The Salt Lake Organizing Committee (SLOC) will officially accredit over 90,000 persons to both Games. Approximately 35,000 of these people will be foreign nationals entitled to special entry procedures developed to fulfill commitments made by the President to the International Olympic Committee (IOC) under the terms of the Olympic Charter.

The Olympic Charter states: ''the Olympic identity card or accreditation card establishes the identity of its holder and constitutes the document authorizing entry into the country in which the city organizing the Olympic Games is situated.'' The Charter additionally requires that the bearer of an Olympic identity card or accreditation card have in their possession an official document confirming their identity and nationality (a passport). For the purposes of the Olympic and Paralympic Winter Games, the Olympic identity card and accreditation card have been combined. Consequently, the Olympic Identity/Accreditation Card (OI/AC), and its counterpart for the Paralympic Winter Games, the Paralympic Identity/Accreditation Card (PI/AC), will serve as valid travel documents when used in conjunction with a foreign national's passport and when properly visaed under the terms set forth by this rule.

What Are ''OFMs'' and ''PFMs?''

Once individuals have been accredited by SLOC, they are, for purposes of this rulemaking, ''Olympic/Paralympic Family Members'' (OFMs or

PFMs). These persons include, but are not necessarily limited to:

(1) Athletes, coaches, trainers, support personnel;

(2) International judges and juries;

(3) Officials of the International Olympic Committee (IOC);

(4) Officials of the International Paralympic Committee (IPC);

(5) Officials of International Federations (IFs);

(6) Officials of National Olympic Committees (NOCs);

(7) Officials of the National Paralympic Committees (NPCs);

(8) Officials of other organizing committees for the Olympic and Paralympic Games (OCOGs);

(9) Accredited International media representatives;

(10) High-level executives of major sponsoring organizations; and

(11) Other certain official guests.

What Basic Changes to Normal Visa Processing Will Occur?

Any alien who is an OFM or PFM must be screened by the Department of State and other relevant government agencies as part of the process for admission to the United States. Given the large number of OFMs and PFMs arriving during the short span of time encompassed by the Winter Games, it is necessary to modify current processing procedures for these groups. Doing so will minimize the burden on U.S. consular posts abroad and will expedite visa processing in fulfillment of United States obligations to the IOC and IPC.

This rule establishes a formal clearance protocol managed through the Olympic Visa Information Database (OVID 2002) maintained by the Department of State and linked to appropriate USG security agencies and to SLOC. For the first time the visa process will be done almost completely electronically between those agencies in consultation with relevant consular posts abroad. The database maintained by the Department of State will include all relevant information needed to issue visas and digitized photos to Olympic/Paralympic Family Members on Olympic and Paralympic Identity/Accreditation Cards.

What Is OVID 2002?

OVID 2002 is a secure, encrypted, electronic interface between the Department of State's computerized visa systems and the official Olympic registration system (the Accreditation Database) operated by SLOC. OVID 2002 will enable the Department of State to download visa-related biographic data and digitized photographs for selected Olympic and Paralympic Family Members, and to conduct case-specific security clearances and visa processing as required by United States immigration law. It is being developed to meet all entry conditions required by the International Olympic Committee (IOC) while fully complying with United States Government (USG) national security responsibilities and immigration law. OVID 2002 employs current technology to build on the strengths and eliminate the weaknesses of the system that was used during the 1996 Olympic Games in Atlanta. Visas will be issued on Olympic & Paralympic Identity/Accreditation Cards produced for selected foreign national Olympians and Paralympians accredited to the Games by SLOC.

Who Is Responsible for Visa Issuance?

The American Embassy in Ottawa will be responsible for OVID 2002 visa issuance. The Department of State will send visa adjudication data on individual foreign nationals to the American Embassy in Ottawa after all USG security requirements have been met and so certified by consular officers at the Department of State. Access to OVID 2002 issuance data will be available to consular posts worldwide through CLASS (Consular Lookout and Support System), and to immigration officers at all US ports-of-entry via IBIS (Interagency Border Information System). Access by consular posts abroad will allow consular officers to verify if a Card has been ''visaed.'' This will be helpful in the event an Olympic or Paralympic Family Member has to apply for a regular visa due to a lost or stolen card, or because the Card has not been received from SLOC or the Responsible Organization. In such situations, consular officers will be able to expedite the issuance of a normal visa based upon a CLASS check.

How Will OVID 2002 Process Visas?

The following sets forth the visa processing protocol for OVID 2002:

(1) SLOC will mail out accreditation registration forms to Responsible Organizations. The accreditation registration forms will have serial numbers. They will be sent in paper, but there will be an electronic version that can be used as well.

(2) Responsible Organizations will return registration forms to SLOC either through the mail or electronically. Each paper registration application will require two passport photos. Each electronic submission will require a digitized photo. All registration applications will require the passport number and the expiration date of the passport.

(3) SLOC will digitize and scan registration application information, including photographs, into its accreditation database.

(4) The data will be passed to OVID 2002, which will be situated at a secure server located at the Department of State.

(5) Once the data for an individual is downloaded to OVID 2002, name checks will be run through the Department of State's CLASS system.

(6) Name check data will be passed to other certain USG agencies via a ''Visas Hurricane'' cable.

(7) Security checks will be verified within the Visa Office. Those cases without problems will be posted daily to OVID 2002. Those with problems will be handled individually in the Visa Office. SLOC will be advised periodically about the status of problem cases.

(8) All cases receiving full USG security clearance will be certified by a consular officer at the Department of State and passed via OVID 2002 to the American Embassy Ottawa for adjudication.

(9) Visas will be issued with an electronic approval.

(10) Notification of visa issuance will be passed back to OVID 2002 and onward to SLOC.

(11) SLOC will produce, and mail to Responsible Organizations, OI/ACs and PI/ACs containing a special alpha-numeric indicia representing visa issuance.

(12) Responsible Organizations will send the Cards to athletes (and other eligible applicants).

(13) Athletes will travel to the U.S. with Olympic/Paralympic Identity/Accreditation Cards and passports. The indicia on the Card will allow air carriers to distinguish that a foreign national is in possession of a ''visaed'' document and therefore does not require a regular visa.

(14) INS officers will inspect Cards at the port of entry. INS will check the applicant's status through its IBIS system to confirm that the applicant has been issued a visa.

(15) If otherwise qualified, the applicant will be admitted to the United States for the period January 8, 2002 until March 24, 2002 (Olympics) or February 7 until April 16, 2002 (Paralympics), or any portion thereof.

How Will Waivers Be Handled?

Waivers for persons who are ineligible for visa issuance will be processed electronically via OVID 2002 and through INS after consultations with appropriate law enforcement agencies. The granting of waivers will be noted

electronically, but will not be indicated on the Card.

What are ''Responsible Organizations?''

For the purposes of providing SLOC with relevant biographic data on each OFM and PFM, organizations responsible for the administration of the Olympic and Paralympic Games will be required to provide a written or electronic application to SLOC on behalf of each individual seeking accreditation. The following are those Responsible Organizations (ROs) authorized to provide SLOC with accreditation applications on behalf of OFMs and PFMs:

(1) The International Olympic Committee (IOC);

(2) The International Paralympic Committee (IPC);

(3) National Olympic Committees for each country participating in the Olympic Games (NOCs);

(4) National Paralympic committees for each country participating in the Paralympic Games (NPCs);

(5) International Federations representing specific sports (IFs) (such as FIFA, the international governing body for soccer);

(6) Other Organizing Committees for the Olympic and Paralympic Games (OCOGs) (Organizing Committees hosting or seeking to host future Olympic Games);

(7) Major sponsors of the Olympic and Paralympic Games (Partners) (responsible for a relatively small number of accreditations for the highest-level executives of the major Olympic and Paralympic sponsoring organizations);

(8) Rights Holding Broadcasters (RTHolder);

(9) Accredited International Press or Agencies (Agency).

How Will the Department of State Handle Visa Fees?

As is customary for all Olympic and Paralympic Games, OFMs and PFMs will be exempted from visa processing and issuance fees.

How Will the Department of State Modify the Requirements for the Filing of a Visa Application and Personal Appearance Before a Consular Officer?

Generally, the Immigration and Nationality Act states at section 222(c) (8 U.S.C. 1202(c)) that each applicant shall have a visa application in whatever form by regulations are prescribed. In the case of the Salt Lake Games, the regulations will allow that an OFM or PFM will neither need to submit an application in the usually required locations, or with the standard visa application form, or make a personal appearance.

Specifically, 22 CFR 41.101 requires an alien to apply for a nonimmigrant visa in the consular district in which he or she resides, whether or not physically present there at that time, or where the alien is physically present regardless of place of residence. However, 22 CFR 41.102(a)(7) states that any nonimmigrant visa applicant may have the personal appearance waived if the consular officer finds that it is in the ''national interest'' to do so. Also, under 22 CFR 41.103(a)(3)(ii), if the personal appearance requirement has been waived, the ''consular officer'' may also waive submission of the Form OF–156 visa application if it is found to be in the ''national interest.'' For the purposes of the 2002 Olympic and Paralympic Games, the term ''consular officer'' will include the Deputy Assistant Secretary of State for Visa Services, who will be authorized to determine national interest exceptions relating to the XIX Olympic Winter Games and VIII Paralympic Winter Games.

In addition, this rule grants the Deputy Assistant Secretary of State for Visa Services the authority to designate a consular post, or posts, to process visas for OFMs and PFMs regardless of the residence or physical presence of the OFMs and PFMs. This will allow for the most efficient utilization of consular services, which will be further enhanced since the vast majority of such applications will be processed electronically.

Normally, Visa Applicants Have To Present Their Passports at the Time of Visa Application. How Will the Department of State Handle This Requirement?

The passport requirement at 22 CFR 41.104(b) requires visa applicants to present their passport at the time of application for the visa. Under this rulemaking, the Department will not require OFMs and PFMs to present their passports to a consular officer at any point during the visa adjudication process. The passport number and passport expiration date will be supplied by SLOC as part of the accreditation process. This data will be passed to OVID 2002 as part of the required security clearance protocol. OFMs and PFMs will be required to present passports at the time of entry to the United States. The passports will be verified with the passport data that was supplied to SLOC as part of initial registration process.

In What Form Will the Visa Appear on the OI/AC or PI/AC?

The general format requirements for a visa are set forth at 22 CFR 41.113. The Salt Lake Olympics and Paralympics, however, will not be subject to all requirements therein. For example, instead of a visa being affixed in an alien's passport, the issuance of a visa will be evidenced on the OI/AC or PI/AC, as provided for at 22 CFR 41.113(b)(4). A visa indicia signifies that visa adjudication has been successfully completed and all information used to adjudicate the alien's visa to completion is maintained electronically in the OVID 2002 database.

What Data Will Be Available on the OI/AC and PI/AC?

When printed, the OI/AC or PI/AC will contain at a minimum (and in addition to the indicia representing visa issuance), the following information pertaining to the bearer:

(1) Family name;

(2) Given name;

(3) Date of birth;

(4) Country of birth;

(5) Nationality;

(6) Gender;

(7) The alien's Olympic or Paralympic function;

(8) The Responsible Organization for the alien;

(9) The alien's passport number and expiration date of said passport; and

(10) A digitized photo of the alien.

What Will Be the Validity Period of the Visa Issued on an OI/AC or PI/AC?

To comply with the terms of the Olympic Charter, visas issued on the OI/AC and PI/AC will permit bearers to enter the United States starting one month prior to opening ceremonies through one month after closing ceremonies. Additionally, in limited cases, some Olympic and Paralympic Family Members may need to enter, depart, and subsequently reenter the United States during the Games. Accordingly, 41.112 is amended to reflect a specific validity period for visas issued on the OI/AC and PI/AC.

How Are Visa Revocations Going To Be Handled?

Any visa issued under § 41.113(i) necessarily will be subject to revocation in the event the beneficiary's Olympic or Paralympic accreditation is withdrawn after the visa indicia has been placed on the Olympic Identity/Accreditation Card or Paralympic Identity/Accreditation Card. In such instances, the visa applicant would no longer be entitled to the nonimmigrant classification for which the visa was

originally intended. The provisions of § 41.113(i) are designed to permit the holder to visit the United States for the purpose of participating in or observing either the XIX Olympic Winter Games or VIII Paralympic Winter Games as an accredited guest of the Salt Lake Organizing Committee. Applicants who lose Olympic or Paralympic accreditation also lose access to the Olympic Village or Paralympic Village as well as the official support of the host city. Consequently, paragraph § 41.122(h) is being added to make clear the responsibility of consular officers to revoke visas that have been issued on OI/ACs and PI/ACs if the bearer is no longer entitled to the benefits that would otherwise be extended through possession of a valid card.

Interim Rule

Administrative Procedure Act

The Department is implementing this rule as an interim rule, with a 60-day provision for post-promulgation public comments, based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and 553(d)(3). The Department considers this rule to be beneficial to the general public since it will provide enhanced visa facilitation in connection with the 2002 Winter Olympic and Paralympic Games. In addition, this rule grants and recognizes an exemption or relief from restrictions within the scope of 5 U.S.C. 5553(d)(1). The Department finds it necessary to implement this rule effective immediately in order to establish appropriate procedures for processing visas on Olympic and Paralympic Identity/Accreditation Cards beginning early September 2001.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements. The information collection requirement (Form OF–156) contained by reference in this rule was previously approved for use by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 41

Aliens, Documentation, Nonimmigrants, Passports and Visas.

PART 41—[AMENDED]

1. The authority citation is revised to read:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1181, 1201, 1202; Pub. L. 105–277, 112 Stat. 2681 *et seq.*

Part 41, Subpart J—Application for Nonimmigrant Visa is amended as follows:

2. Add new paragraph (g) to § 41.101 to read as follows:

§ 41.101 Place of application.

* * * * *

(g) Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah in 2002. (1) Notwithstanding paragraph (a) of this section, consular officers at consular posts designated by the Deputy Assistant Secretary of State for Visa Services shall accept applications for nonimmigrant visas for certain aliens who are accredited by the Salt Lake Organizing Committee as ''Olympic and Paralympic Family Members,'' as defined in paragraph (g)(2) of this section, without regard to the alien's residence or physical presence provided the consular officer has received from the Salt Lake Organizing Committee through the Department of State confirmation of accreditation and information necessary to complete visa adjudications. Adjudications must be made no earlier than September 1, 2001 and not later than March 16, 2002.

(2) The definition of ''Olympic Family Member'' and ''Paralympic Family Member'' shall include, but not necessarily be limited to:

(i) Athletes, coaches, trainers, support personnel;

(ii) International judges and juries;

(iii) Officials of the International Olympic Committee (IOC);

(iv) Officials of the International Paralympic Committee (IPC);

(v) Officials of International Federations (IFs);

(vi) Officials of National Olympic Committees (NOCs);

(vii) Officials of the National Paralympic Committees (NPCs);

(viii) Officials of other organizing committees for the Olympic and Paralympic Games (OCOGs); and

(ix) Certain official guests, international media representatives, and high-level executives of sponsoring organizations.

3. Add a new paragraph (c) to § 41.102 to read as follows:

§ 41.102 Personal appearance of applicant.

* * * * *

(c) XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah in 2002. (1) For purposes of the XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah in 2002, the reference made to ''the consular officer'' in paragraph (a)(7) of this section is interpreted to include the Deputy Assistant Secretary of State for Visa Services.

(2) The Deputy Assistant Secretary of State for Visa Services is authorized to make a blanket determination that a waiver of personal appearance for all ''Olympic Family Members'' and ''Paralympic Family Members'' accredited by the Salt Lake Organizing Committee (see § 41.101(f)(2)) is in the national interest.

4. Amend § 41.103 by adding new paragraph (c) to read as follows:

§ 41.103 Filing an application and Form OF–156.

* * * * *

(c) XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah in 2002. (1) For purposes of the XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah in 2002, the reference made to ''the consular officer'' in paragraph (a)(3)(ii) of this section is interpreted to include the Deputy Assistant Secretary of State for Visa Services.

(2) The Deputy Assistant Secretary of State for Visa Services is authorized to make a blanket determination that a waiver of the filing of an application on Form OF–156 for all ''Olympic Family Members'' and ''Paralympic Family Members'' accredited by the Salt Lake Organizing Committee (see § 41.101(f)(2)) is in the national interest.

5. Add a new paragraph (e) to § 41.104 to read as follows:

§ 41.104 Passport requirements.

* * * * *

(e) XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah in 2002. Notwithstanding paragraph (b) of this section, consular officers at the American Embassy in Ottawa, Canada shall process visa applications submitted on behalf of those ''Olympic Family Members'' and ''Paralympic Family Members'' (see § 41.101(f)(2)) who have received Olympic accreditation from the Salt Lake Olympic Committee through OVID 2002 without requiring the presentation of a passport.

6. Add a new paragraph (f) to § 41.107 to read as follows:

§ 41.107 Visa fees.

* * * * *

(f) Notwithstanding subsection (a) and (e) of this section, the fees prescribed in items 55 and 57 of § 22.1 of this chapter are not required for any accredited ''Olympic Family Member'' or ''Paralympic Family Member'' to whom a United States visa has been issued on the applicant's OI/AC or PI/AC and which is intended for use in conjunction with a valid passport.

7. Amend § 41.112 by revising paragraph (b)(1) and adding paragraph (f) to read as follows:

§ 41.112 Validity of Visa.

* * * * *

(b) Validity of visa and number of applications for admission. (1) Except as provided in paragraphs (c) and (d) of this section, a nonimmigrant visa shall have the validity prescribed in schedules provided to consular officers by the Department, reflecting insofar as practicable the reciprocal treatment accorded U.S. nationals, U.S. permanent residents, or aliens granted refugee status in the U.S. by the government of the country of which the alien is a national, permanent resident, refugee or stateless resident.

* * * * *

(f) Validity of visas, issued on Olympic and Paralympic Identify/Accreditation Cards. For the purposes of the XIX Olympic Winter Games, a visa issued on the Olympic Identity/Accreditation Card shall be valid for multiple entries into the United States from January 8, 2002 until March 24, 2002. For the purposes of the VIII Paralympic Winter Games, a visa issued on the Paralympic Identity/Accreditation Card shall be valid for multiple entries into the United States from February 7, 2002 until April 16, 2002.

8. Add new paragraphs (i) through (k) to § 41.113 to read as follows:

§ 41.113 Procedures for visa processing.

* * * * *

(i) Exception for XIX Olympic Winter Games and VIII Paralympic Winter Games in Salt Lake City, Utah in 2002. In the case of an alien who is an accredited ''Olympic Family Member'' or ''Paralympic Family Member'' (see § 41.101(f)(2)) of the XIX Olympic Winter Games or VIII Paralympic Winter Games in Salt Lake City, Utah in 2002, such alien will neither be required to have a visa stamp in his or her passport nor be required to carry an OF–232. Instead, an indicia on the ''Olympic Identity/Accreditation Card'' (OI/AC) or Paralympic Identity/Accreditation Card'' (PI/AC), when presented in conjunction with a valid passport, will constitute prima facie evidence that a consular officer has issued a visa to the alien. This indicia will be placed on the OI/AC only after:

(1) A consular officer has adjudicated visa eligibility and,

(2) The Department of State has created an electronic file on the alien containing the information required by subsection (c) of this section, including information gained by the Department of State's security checks, a record of the issuance of any waiver, the final result of the visa adjudication, and any other information related to the visa issuing process.

(j) Additional data requirements. In addition to the visa indicia, the OI/AC or PI/AC shall also include, at a minimum, the following:

(1) Family name;

(2) Given name;

(3) Date of birth;

(4) Country of birth;

(5) Nationality;

(6) Gender;

(7) The alien's Olympic or Paralympic function;

(8) The Responsible Organization for the alien;

(9) The alien's passport number and expiration date of said passport; and

(10) A digitized photo of the alien.

(k) Classification of visas issued on Olympic and Paralympic Identity/Accreditation Cards. The classification of visas issued on the OI/AC shall be either ''B–1/B–2'' (visitor for business/pleasure) or ''I'' (information media representative) depending on the Olympic functions as set forth in the following tables.

TABLE 1.—2002 WINTER OLYMPIC GAMES

Visa classification	Sub-category	Description of sub-category accreditees
B–1/B–2	AA	ATHLETES.
B–1/B–2	AC	CHEFS DE MISSION & ATTACHES.
B–1/B–2	AM	TEAM MEDICAL OFFICIALS.
B–1/B–2	AO	TEAM OFFICIALS.
B–1/B–2	AS	TEAM OFFICIALS NOT RESIDING IN VILLAGE.
B–1/B–2	B	IOC STAFF, IF EXECUTIVE BOARD MEMBERS, IOC COMMISSION MEMBERS, ETC.
B–1/B–2	B*	B ACCOMPANYING GUESTS.
I	E	JOURNALISTS.
I	EC	MAIN PRESS CENTER SUPPORT PERSONNEL.
I	ENR	NON RIGHTSHOLDING BROADCASTERS.
I	EP	PHOTOGRAPHERS.

TABLE 1.—2002 WINTER OLYMPIC GAMES—Continued

Visa classification	Sub-category	Description of sub-category accreditees
I	ET	MEDIA TECHNICIANS.
B–1/B–2	G	HONORED GUESTS.
B–1/B–2	G*	G ACCOMPANYING GUESTS.
B–1/B–2	GI	DISTINGUISHED GUESTS.
B–1/B–2	GI*	GI ACCOMPANYING GUESTS.
B–1/B–2	IF	INTERNATIONAL FEDERATION EXECUTIVES.
B–1/B–2	IF*	IF ACCOMPANYING GUESTS.
B–1/B–2	IOC	INTERNATIONAL OLYMPIC COMMITTEE MEMBERS & SENIOR STAFF.
B–1/B–2	IOC*	IOC ACCOMPANYING GUESTS.
B–1/B–2	J	IF JURY MEMBERS AND REFEREES.
B–1/B–2	NOC	NATIONAL OLYMPIC COMMITTEE EXECUTIVES.
B–1/B–2	NOC*	NOC ACCOMPANYING GUESTS.
B–1/B–2	OBS	OBSERVERS FROM FUTURE GAMES.
B–1/B–2	OC	FUTURE OLYMPIC GAMES EXECUTIVES.
B–1/B–2	OC*	OC ACCOMPANYING GUESTS.
I	RTA	SENIOR BROADCAST PERSONNEL.
I	RTB	BROADCAST PERSONNEL.
I	RTC	IBC BROADCAST PERSONNEL.
B–1/B–2	TOP	SENIOR TOP SPONSOR EXECUTIVES.
B–1/B–2	TOP*	TOP ACCOMPANYING GUESTS.

TABLE 2.—2002 WINTER PARALYMPIC GAMES

Visa classification	Sub-category	Description of sub-category accreditees
B–1/B–2	AA	ATHLETES.
B–1/B–2	AC	CHEFS DE MISSION & ATTACHES.
B–1/B–2	AO	TEAM OFFICIALS.
B–1/B–2	AS	TEAM OFFICIALS NOT RESIDING IN VILLAGE.
B–1/B–2	B	IPC STAFF, IPC COMMISSION MEMBERS, SPORT TECHNICAL DELEGATES.
I	M	WORKING MEDIA (INCLUDING BROADCASTERS).
B–1/B–2	G	PARALYMPIC FAMILY GUESTS.
B–1/B–2	IF	INTERNATIONAL FEDERATION EXECUTIVES.
B–1/B–2	IF*	IF ACCOMPANYING GUESTS.
B–1/B–2	IPC	INTERNATIONAL OLYMPIC COMMITTEE MEMBERS & SENIOR STAFF.
B–1/B–2	J	COMPETITION OFFICIALS AND CLASSIFIERS.
B–1/B–2	NPC	NATIONAL PARALYMPIC COMMITTEE EXECUTIVES.
B–1/B–2	OBS	OBSERVERS FROM FUTURE GAMES.

9. Add new paragraphs (i) and (j) to § 41.122 to read as follows:

§ 41.122 Revocation of visas.

* * * * *

(i) For the purposes of the XIX Olympic Winter Games and VIII Paralympic Winter Games, a consular officer must revoke under paragraph (a)(1) of this section any visa processed under § 41.113(i) upon notification by the Salt Lake Organizing Committee that:

(1) Olympic or Paralympic accreditation has been withdrawn following visa issuance, or,

(2) Any of the following data elements as they appear on the Olympic Identity/Accreditation Card (OIAC) or Paralympic Identity Card (PIAC) is modified subsequent visa issuance:

(i) Family name;

(ii) Given name;

(iii) Date of birth;

(iv) Country of birth;

(v) Nationality;

(vi) Gender;

(vii) Passport number; or,

(3) At the discretion of the consular officer where it is determined that the Olympic or Paralympic Family Member seeking visa issuance is not qualified for the visa status applied for.

(j) The revocation of any visa processed under § 41.113(i) must be registered electronically in the Department's Olympic Visa Information Database (OVID 2002) and must include the date and time of revocation, the reason for revocation, and the name of the consular officer revoking the visa.

Dated: June 20, 2001.

Mary A. Ryan,

Assistant Secretary of State for Consular Affairs, Department of State.

[FR Doc. 01–18424 Filed 7–24–01; 8:45 am]

BILLING CODE 4710–06–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20 and 602

[TD 8957]

RIN 1545–AX98

Estate Tax Return; Form 706, Extension to File

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the filing of an application for an automatic 6-month extension of time to file an estate tax return (Form 706). The final regulations provide guidance to executors of decedents' estates on how to properly file the application for the automatic extension.

DATES: *Effective Date:* These regulations are effective July 25, 2001.

Applicability Date: For dates of applicability, see §§ 20.6075–1 and 20.6081–1(e).

FOR FURTHER INFORMATION CONTACT: Mary Berman, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1707. The collection of information in these final regulations is in § 20.6081–1. To receive an extension of time to file an estate tax return, the executor of a decedent's estate must file Form 4768, ''Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.'' This information is required to obtain a benefit (an automatic 6-month extension of time to file an estate tax return). The collection of information is mandatory if the extension is requested. The likely respondents are executors of decedents' estates.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The reporting burden contained in § 20.6081–1 is reflected in the burden of Form 4768.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S:O, Washington, DC 20224 and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax information are confidential, as required by 26 U.S.C. 6103.

Background

On October 20, 2000, the IRS published in the **Federal Register** (65 FR 63025) a notice of proposed rulemaking (REG–106511–00) relating to the filing of an application for an automatic 6-month extension of time to file Form 706, ''United States Estate (and Generation-Skipping Transfer) Tax Return.'' This document adopts final regulations with respect to that notice of proposed rulemaking. Written comments were received with respect to the proposed regulations, and a public hearing was held on January 24, 2001. A summary of the principal comments received is provided below.

In general, under the proposed regulations the executor of a decedent's estate is allowed an automatic 6-month extension of time to file Form 706 beyond the 9 months provided for by section 6075(a). The application for the automatic extension must be submitted on Form 4768. The application must be filed with the IRS on or before the date prescribed by section 6075(a) for filing the Form 706, and it must include an estimate of the full amount of tax due.

The proposed regulations refer to ''the person who is required to file the return'' as the person who may request an extension of time to file. Since § 20.6018–2 of the Estate Tax Regulations requires that the return be filed jointly by all executors in situations in which there is more than one executor, one commentator pointed out that ''the person who is required to file the return'' could be interpreted as meaning that all executors must sign the request for an extension of time to file in situations in which there is more than one executor.

Also, the Treasury Department and the IRS recognize that ''the person who is required to file the return'' may be interpreted to mean that only an executor may sign a request for an extension to file. However, as indicated on Form 4768, the request may be signed by an attorney, certified public accountant, or enrolled agent authorized by the executor, or by an authorized agent holding a power of attorney.

In response to the comment, the quoted language in the proposed regulations has been deleted from the final regulations. Also, the Form 4768 will be revised to clarify that it is only necessary for one executor to sign the request for an extension of time to file in situations in which there is more than one executor.

Two commentators suggested that the final regulations clearly provide that payment of the tax is not a prerequisite to obtaining an extension of time to file, and that an extension of time to file does not operate to extend the time for payment of the tax. In response to this suggestion, the final regulations provide that, if an extension of time to file has been obtained but no extension of time to pay has been granted, interest will be due on the tax not paid by the due date and the estate will be subject to all applicable late payment penalties.

One commentator suggested that, in addition to the automatic 6-month extension of time to file, the regulations provide an automatic extension of time to pay. The commentator suggested that the executor be required to pay an amount equal to the executor's ''best estimate'' of the ultimate tax due and receive an automatic extension of time to pay any excess. The Treasury Department and the IRS believe that a standard incorporating an executor's ''best estimate'' would be difficult to administer, and the suggestion has not been adopted.

One commentator suggested that the regulations provide the criteria to be used in approving or denying requests for extensions of time to file that do not qualify for the automatic 6-month extension. This suggestion has not been adopted. The Treasury Department and the IRS believe that the circumstances surrounding requests for extensions of time to file that do not qualify for the automatic 6-month extension generally present factual issues and questions warranting the broad discretion of the IRS office responsible for granting or denying the extension of time.

Special Analysis

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply and because this rule does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to these regulations, and therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Mary Berman, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 20 and 602 are amended as follows:

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Paragraph 1. The authority citation for part 20 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 20.6081–1 also issued under 26 U.S.C. 6081(a). * * *

Par. 2. Section 20.6075–1 is revised to read as follows:

§ 20.6075–1 Returns; time for filing estate tax return.

The estate tax return required by section 6018 must be filed on or before the due date. The due date is the date on or before which the return is required to be filed in accordance with the provisions of section 6075(a) or the last day of the period covered by an extension of time as provided in § 20.6081–1. The due date, for a decedent dying after December 31, 1970, is, unless an extension of time for filing has been obtained, the day of the ninth calendar month after the decedent's death numerically corresponding to the day of the calendar month on which death occurred. However, if there is no numerically corresponding day in the ninth month, the last day of the ninth month is the due date. For example, if the decedent dies on July 31, 2000, the estate tax return and tax payment must be made on or before April 30, 2001. When the due date falls on Saturday, Sunday, or a legal holiday, the due date for filing the return is the next succeeding day that is not Saturday, Sunday, or a legal holiday. For the definition of a legal holiday, see section 7503 and § 301.7503–1 of this chapter. As to additions to the tax in the case of failure to file the return or pay the tax within the prescribed time, see section 6651 and § 301.6651–1 of this chapter. For rules with respect to the right to elect to have the property valued as of a date or dates subsequent to the decedent's death, see section 2032 and § 20.2032–1, and section 7502 and § 301.7502–1 of this chapter. This section applies to estates of decedents dying after August 16, 1954.

Par. 3. Section 20.6081–1 is revised to read as follows:

§ 20.6081–1 Extension of time for filing the return.

(a) *Procedures for requesting an extension of time for filing the return.* A request for an extension of time to file the return required by section 6018 must be made by filing Form 4768, ''Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.'' Form 4768 must be filed with the Internal Revenue Service office designated in the application's instructions (except as provided in § 301.6091–1(b) of this chapter for hand-carried documents). Form 4768 must include an estimate of the amounts of estate and generation-skipping transfer tax liabilities with respect to the estate.

(b) *Automatic extension.* An estate will be allowed an automatic 6-month extension of time beyond the date prescribed in section 6075(a) to file Form 706, ''United States Estate (and Generation-Skipping Transfer) Tax Return,'' if Form 4768 is filed on or before the due date for filing Form 706 and in accordance with the procedures under paragraph (a) of this section.

(c) *Extension for good cause shown.* In its discretion, the Internal Revenue Service may, upon the showing of good and sufficient cause, grant an extension of time to file the return required by section 6018 in certain situations. Such an extension may be granted to an estate that did not request an automatic extension of time to file Form 706 prior to the due date under paragraph (b) of this section, to an estate or person that is required to file forms other than Form 706, or to an executor who is abroad and is requesting an additional extension of time to file Form 706 beyond the 6-month automatic extension. Unless the executor is abroad, the extension of time may not be for more than 6 months beyond the filing date prescribed in section 6075(a). To obtain such an extension, Form 4768 must be filed in accordance with the procedures under paragraph (a) of this section and must contain a detailed explanation of why it is impossible or impractical to file a reasonably complete return by the due date. Form 4768 should be filed sufficiently early to permit the Internal Revenue Service time to consider the matter and reply before what otherwise would be the due date of the return. Failure to file Form 4768 before that due date may indicate negligence and constitute sufficient cause for denial of the extension. If an estate did not request an automatic extension of time to file Form 706 under paragraph (b) of this section, Form 4768 must also contain an explanation showing good cause for not requesting the automatic extension.

(d) *Filing the return.* A return as complete as possible must be filed before the expiration of the extension period. The return thus filed will be the return required by section 6018(a), and any tax shown on the return will be the amount determined by the executor as the tax referred to in section 6161(a)(2), or the amount shown as the tax by the taxpayer upon the taxpayer's return referred to in section 6211(a)(1)(A). The return cannot be amended after the expiration of the extension period although supplemental information may subsequently be filed that may result in a finally determined tax different from the amount shown as the tax on the return.

(e) *Payment of the tax.* An extension of time for filing a return does not operate to extend the time for payment of the tax. See § 20.6151–1 for the time for payment of the tax, and §§ 20.6161–1 and 20.6163–1 for extensions of time for payment of the tax. If an extension of time to file a return is obtained, but no extension of time for payment of the tax is granted, interest will be due on the tax not paid by the due date and the estate will be subject to all applicable late payment penalties.

(f) *Effective date.* This section applies to estates of decedents dying after August 16, 1954, except for paragraph (b) of this section which applies to estate tax returns due after July 25, 2001.

PART 602—OMB CONTROL UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In § 602.101, paragraph (b) is amended by revising the entry for § 20.6081–1 to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
20.6081–1	1545–0015 1545–0181 1545–1707
* * * * *	

Dated: Approved: July 17, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Mark Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 01–18417 Filed 7–24–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, 7, 17, 19, 20, 22, 24, 25, 26, 70, 250, and 251

[T.D. ATF–459]

RIN 1512–AC40

Liquors and Articles From Puerto RIco and the Virgin Islands; Recodification of Regulations (2001R–56P)

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

ACTION: Final Rule (Treasury decision).

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is recodifying the regulations pertaining to liquors and articles from Puerto Rico and the Virgin Islands. The purpose of this recodification is to reissue the regulations in part 250 of title 27 of the Code of Federal Regulations (27 CFR part 250) as 27 CFR part 26. This change improves the organization of title 27.

DATES: This rule is effective on July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226, (202–927–9347) or e-mail at LMGesser@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

As a part of continuing efforts to reorganize the part numbering system of title 27 CFR, ATF is removing part 250, in its entirety, and is recodifying the regulations as 27 CFR part 26. This change improves the organization of title 27 CFR.

In addition to the recodification, ATF is making two technical amendments to title 27 CFR, chapter I. Specifically, we are designating Subchapter B as Tobacco and in part 251 we are revising the reference to part 240 to read part 24.

DERIVATION TABLE FOR PART 26

The requirements of sec.	Are derived from sec.
Subpart A	
26.1	250.1
26.2	250.2
26.3	250.3
Subpart B	
26.11	250.11
Subpart C—[Reserved] Subpart Ca	
26.30	250.30
26.31	250.31
Subpart Cb	
26.35	250.35
26.36	250.36
26.36a	250.36a
26.36b	250.36b
26.36c	250.36c
26.37	250.37
26.38	250.38
26.39	250.39
26.40	250.40
26.41	250.41
26.43	250.43
26.44	250.44
26.45	250.45
26.46	250.46
26.47	250.47
Subpart D	
26.50	250.50
26.50a	250.50a
26.51	250.51
26.52	250.52
26.53	250.53
26.54	250.54
26.55	250.55
Subpart E	
26.61	250.61
26.62	250.62
26.62a	250.62a
26.62b	250.62b
26.63	250.63
26.64	250.64
26.65	250.65
26.66	250.66
26.67	250.67
26.68	250.68
26.68a	250.68a
26.69	250.69
26.70	250.70
26.70a	250.70a
26.71	250.71
26.72	250.72
26.73	250.73
26.74	250.74
26.75	250.75
26.76	250.76
26.77	250.77
26.78	250.78
26.79	250.79
26.79a	250.79a
26.80	250.80
26.81	250.81
26.82	250.82

DERIVATION TABLE FOR PART 26—Continued

The requirements of sec.	Are derived from sec.
26.86	250.86
26.87	250.87
26.92	250.92
26.93	250.93
26.94	250.94
26.95	250.95
26.96	250.96
26.96a	250.96a
26.96b	250.96b
26.97	250.97
26.101	250.101
26.102	250.102
26.103	250.103
26.104	250.104
26.105	250.105
26.105a	250.105a
26.106	250.106
26.107	250.107
26.108	250.108
26.109	250.109
26.110	250.110
26.111	250.111
26.112	250.112
26.112a	250.112a
26.113	250.113
26.114	250.114
26.115	250.115
26.116	250.116
26.117	250.117
26.118	250.118
26.119	250.119
Subpart F	
26.125	250.125
26.126	250.126
26.128	250.128
Subpart G	
26.135	250.135
26.136	250.136
Subpart H	
26.163	250.163
26.164	250.164
26.164a	250.164a
26.165	250.165
Subpart I	
26.170	250.170
26.171	250.171
26.172	250.172
26.173	250.173
26.174	250.174
Subpart Ia	
26.191	250.191
26.192	250.192
26.193	250.193
26.194	250.194
Subpart Ib	
26.196	250.196
26.197	250.197
26.198	250.198
26.199	250.199

DERIVATION TABLE FOR PART 26—Continued

The requirements of sec.	Are derived from sec.
26.199a	250.199a
26.199b	250.199b
26.199c	250.199c
26.199d	250.199d
26.199e	250.199e
26.199f	250.199f
Subpart J	
26.200	250.200
26.201	250.201
26.201a	250.201a
26.201b	250.201b
26.201c	250.201c
26.202	250.202
26.203	250.203
26.203a	250.203a
26.204	250.204
26.204a	250.204a
26.205	250.205
26.206	250.206
26.207	250.207
26.209	250.209
26.210	250.210
26.211	250.211
Subpart K	
26.220	250.220
26.221	250.221
26.222	250.222
26.223	250.223
26.224	250.224
26.225	250.225
Subpart L	
26.230	250.230
26.231	250.231
Subpart M	
26.260	250.260
26.261	250.261
26.262	250.262
26.262a	250.262a
26.263	250.263
26.264	250.264
26.265	250.265
26.266	250.266
26.267	250.267
Subpart N	
26.272	250.272
26.273	250.273
26.273a	250.273a
26.273b	250.273b
26.275	250.275
26.276	250.276
26.277	250.277
Subpart O	
26.291	250.291
26.292	250.292
26.293	250.293
26.294	250.294
26.295	250.295
26.296	250.296

DERIVATION TABLE FOR PART 26—Continued

The requirements of sec.	Are derived from sec.
26.297	250.297
Subpart Oa	
26.300	250.300
26.301	250.301
26.302	250.302
26.303	250.303
26.304	250.304
26.305	250.305
Subpart Ob	
26.306	250.306
26.307	250.307
26.308	250.308
26.309	250.309
26.310	250.310
Subpart P	
26.311	250.311
26.312	250.312
26.314	250.314
26.315	250.315
26.316	250.316
26.317	250.317
26.318	250.318
26.319	250.319
Subpart Q	
26.331	250.331

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act (5 U.S.C. 553), the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We sent a copy of this final rule to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

This final rule is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this final rule is not subject to the analysis required by this Executive Order.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly, because of the nature of this final rule, good cause is found that it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

27 CFR Part 5

Advertising, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 7

Advertising, Beer, Customs duties and inspection, Imports, Labeling, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 17

Administrative practice and procedure, Claims, Cosmetics, Customs duties and inspection, Drugs, Excise taxes, Exports, Imports, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Virgin Islands.

27 CFR Part 19

Caribbean Basin initiative, Claims, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Surety bonds, Vinegar, Virgin Islands, Warehouses.

27 CFR Part 20

Alcohol and alcoholic beverages, Claims, Cosmetics, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 22

Administrative practice and procedure, Alcohol and alcoholic beverages, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 24

Administrative practice and procedure, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

27 CFR Part 25

Beer, Claims, Electronic funds transfers, Excise taxes, Exports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds.

27 CFR Part 26

Alcohol and alcoholic beverages, Caribbean Basin initiative, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Virgin Islands, Warehouses.

27 CFR Part 70

Administrative practice and procedure, Claims, Excise taxes, Freedom of information, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 250

Alcohol and alcoholic beverages, Caribbean Basin initiative, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Virgin Islands, Warehouses.

27 CFR Part 251

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

Authority and Issuance

ATF is amending title 27 of the Code of Federal Regulations, chapter I, as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Par. 1. The authority citation for 27 CFR part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 2. Under the heading ''Cross References,'' remove the reference to ''27 CFR Part 250-Liquors and Articles from Puerto Rico and the Virgin Islands'' and add, in part number order, a reference to ''27 CFR Part 26-Liquors and Articles from Puerto Rico and the Virgin Islands.''

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 3. The authority citation for 27 CFR part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805; 27 U.S.C. 205.

§ 5.2 [Amended]

Par. 4. Amend § 5.2 by removing the reference to ''27 CFR Part 250-Liquors and Articles from Puerto Rico and the Virgin Islands'' and adding, in part number order, a reference to ''27 CFR Part 26-Liquors and Articles from Puerto Rico and the Virgin Islands.''

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 5. The authority citation for 27 CFR part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

§ 7.4 [Amended]

Par. 6. Amend § 7.4 by removing the reference to ''27 CFR Part 250-Liquors and Articles from Puerto Rico and the Virgin Islands'' and adding, in part number order, a reference to ''27 CFR Part 26-Liquors and Articles from Puerto Rico and the Virgin Islands.''

PART 17—DRAWBACK ON TAXPAID DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Par. 7. The authority citation for 27 CFR part 17 continues to read as follows:

Authority: 26 U.S.C. 5010, 5131–5134, 5143, 5146, 5206, 5273, 6011, 6065, 6091, 6109, 6151, 6402, 6511, 7011, 7213, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 17.5 [Amended]

Par. 8. Amend § 17.5 by removing the reference to ''part 250'' and adding, in its place, a reference to ''part 26.''

PART 19—DISTILLED SPIRITS PLANTS

Par. 9. The authority citation for 27 CFR part 19 continues to read as follows:

Authority: 19 U.S.C. 81c 1131; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 19.3 [Amended]

Par. 10. Amend § 19.3 by removing the reference to ''27 CFR Part 250-Liquors and Articles from Puerto Rico and the Virgin Islands'' and adding, in part number order, a reference to ''27 CFR Part 26-Liquors and Articles from Puerto Rico and the Virgin Islands.''

§ 19.485 [Amended]

Par. 11. Amend § 19.485 as follows:

a. In paragraph (a)(1), remove the reference to ''27 CFR 250.40'' and add, in its place, a reference to ''27 CFR 26.40''; and

b. In paragraph (a)(2), remove the reference to ''27 CFR 250.206'' and add, in its place, a reference to ''27 CFR 26.206.''

§ 19.524 [Amended]

Par. 12. Amend paragraphs (a)(1), (b)(1) and (b)(3) of § 19.524 by removing the reference to ''parts 250 and 251'' and adding, in its place, a reference to ''parts 26 and 251.''

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Par. 13. The authority citation for 27 CFR part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5552, 5555, 5607, 6065, 7805.

§ 20.3 [Amended]

Par. 14. Amend § 20.3 by removing the reference to ''27 CFR Part 250-Liquors and Articles from Puerto Rico and the Virgin Islands'' and adding, in part number order, a reference to ''27 CFR Part 26-Liquors and Articles from Puerto Rico and the Virgin Islands.''

PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Par. 15. The authority citation for 27 CFR part 22 continues to read as follows:

Authority: 26 U.S.C. 5001, 5121, 5142, 5143, 5146, 5206, 5271–5276, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

§ 22.3 [Amended]

Par. 16. Amend § 22.3 by removing the reference to ''27 CFR Part 250-Liquors and Articles from Puerto Rico and the Virgin Islands'' and adding, in part number order, a reference to ''27 CFR Part 26-Liquors and Articles from Puerto Rico and the Virgin Islands.''

PART 24—WINE

Par. 17. The authority citation for 27 CFR part 24 continues to read as follows:

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

§ 24.4 [Amended]

Par. 18. Amend § 24.4 by removing the reference to ''27 CFR Part 250-Liquors and Articles from Puerto Rico and the Virgin Islands'' and adding, in part number order, a reference to ''27 CFR Part 26-Liquors and Articles from Puerto Rico and the Virgin Islands.''

§ 24.272 [Amended]

Par. 19. Amend paragraphs (a)(1), (b)(1) and (b)(3) of § 24.272 by removing the reference to ''parts 250 and 251'' and adding, in its place, a reference to ''parts 26 and 251.''

PART 25—BEER

Par. 20. The authority citation for 27 CFR part 25 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

§ 25.165 [Amended]

Par. 21. Amend paragraph (a)(1), (b)(1) and (b)(3) of § 25.165 by removing the reference to ''Parts 250 and 251'' and adding, in its place, a reference to ''parts 26 and 251.''

Par. 21a. Add the following heading to Subchapter B:

Subchapter B—Tobacco

* * * * *

PART 70—PROCEDURE AND ADMINISTRATION

Par. 22. The authority citation for 27 CFR part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653, 7805.

§§ 70.411 and 70.461 [Amended]

Par. 23. Remove the reference to ''part 250'' and add, in its place, a reference to ''part 26'' in the following places:

a. Section 70.411(c)(26); and

b. Section 70.461.

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Par. 24. The authority citation for 27 CFR part 251 continues to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

Par. 25. Under the heading ''Cross Reference,'' remove the reference to ''part 250'' and add, in its place, a reference to ''part 26.''

§ 251.1 [Amended]

Par. 26. Revise the ''Note'' in § 251.1 to read as follows:

§ 251.1 Imported distilled spirits, wines, and beer.

* * * * *

Note: Distilled spirits, wines, and beer arriving in the United States from Puerto Rico and the Virgin Islands are governed by the provisions of part 26 of this chapter.

* * * * *

§ 251.48a [Amended]

Par. 27. Amend paragraph (a) of § 251.48a as follows:

a. Remove the reference to ''parts 19 and 250'' and add, in its place, a reference to ''parts 19 and 26'';

b. Remove the reference to ''parts 240 and 250'' and add, in its place, a reference to ''parts 24 and 26''; and

c. Remove the reference to ''parts 25 and 250'' and add, in its place, a reference to ''parts 25 and 26.''

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Par. 28. The authority citation for 27 CFR part 250 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131–5134, 5141, 5146, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

PART 250—[REDESIGNATED AS PART 26]

Par. 29. Redesignate 27 CFR part 250 as 27 CFR part 26.

PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Par. 30. The authority citation for the newly redesignated part 26 of title 27 CFR, subchapter A, continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131–5134, 5141, 5146, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 26.3 [Amended]

Par. 30a. Amend § 26.3 as follows:

a. Remove the reference to ''part 250,'' each place it appears, and add, in its place, a reference to ''part 26''; and

b. Remove the reference to ''ATF Order 1130.23,'' each place it appears, and add, in its place, a reference to ''ATF Order 1130.29.''

§ 26.11 [Amended]

Par. 31. Amend § 26.11 as follows:

a. In the definition of ''Appropriate ATF Officer,'' remove the reference to ''ATF Order 1130.23, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 250,'' and add, in its place, a reference to ''ATF Order 1130.29, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 26''; and

b. In the definition of ''Virgin Islands regulations,'' remove the reference to ''§ 250.201a'' and add, in its place, a reference to ''§ 26.201a.''

§ 26.30 [Amended]

Par. 32. Amend § 26.30 by removing the reference to ''§ 250.31'' and adding, in its place, a reference to ''§ 26.31.''

§§ 26.35, 26.47 and 26.107 [Amended]

Par. 33. Remove the reference to ''§ 250.36,'' each place it appears, and

add, in its place, a reference to ''§ 26.36,'' in the following places:
a. Section 26.35(a);
b. Section 26.47; and
c. Section 26.107.

§ 26.45 [Amended]

Par. 34. Amend § 26.45 by removing the reference to ''§ 250.44'' and adding, in its place, a reference to ''§ 26.44.''

§ 26.50 [Amended]

Par. 35. Amend § 26.50 as follows:
a. In paragraph (a), remove the reference to ''§ 250.36'' and add, in its place, a reference to ''§ 26.36''; and
b. In paragraphs (a) and (b), remove the reference to ''§ 250.54'' and add, in its place, a reference to ''§ 26.54.''

§ 26.51 [Amended]

Par. 36. Amend paragraph (c) of § 26.51 by removing the reference to ''§ 250.54'' and adding, in its place, a reference to ''§ 26.54.''

§ 26.55 [Amended]

Par. 37. Amend § 26.55 by removing the reference to ''§ 250.52'' and adding, in its place, a reference to ''§ 26.52.''

§ 26.68a [Amended]

Par. 38. Amend § 26.68a as follows:
a. Remove the reference to ''§§ 250.66(a), 250.67, or § 250.68'' and add, in its place, a reference to ''§§ 26.66(a), 26.67, or 26.68''; and
b. Remove the reference to ''§ 250.66(b)'' and add, in its place, a reference to ''§ 26.66(b).''

§§ 26.70, 26.71 and 26.73 [Amended]

Par. 39. Remove the reference to ''§ 250.72'' and add, in its place, a reference to ''§ 26.72,'' in the following places:
a. Section 26.70;
b. Section 26.71(a); and c. Section 26.73.

§ 26.72 [Amended]

Par. 40. Amend § 26.72 by removing the reference to ''§ 250.73'' and adding, in its place, a reference to ''§ 26.73.''

§ 26.74 [Amended]

Par. 41. Amend § 26.74 by removing the reference to ''§ 250.63'' and adding, in its place, a reference to ''§ 26.63.''

§ 26.77 [Amended]

Par. 42. Amend paragraph (c) of § 26.77 by removing the reference to ''§ 250.79a'' and adding, in its place, a reference to ''§ 26.79a.''

§§ 26.79, 26.80, 26.81, 26.199a and 26.199b [Amended]

Par. 43. Remove the reference to ''§ 250.164a'' and add, in its place, a reference to ''§ 26.164a,'' in the following places:
a. Section 26.79(a);
b. Section 26.80(a);
c. Section 26.81(a);
d. Section 26.199a(a); and
e. Section 26.199b.

§ 26.82 [Amended]

Par. 44. Amend § 26.82 by removing the reference to ''§§ 250.114 through 250.116'' and adding, in its place, a reference to ''§§ 26.114 through 26.116.''

§ 26.87 [Amended]

Par. 45. Amend § 26.87 as follows:
a. Remove the reference to ''§ 250.86'' and add, in its place, a reference to ''§ 26.86'';
b. Remove the reference to ''§ 250.81'' and add, in its place, a reference to ''§ 26.81'';
c. Remove the reference to ''§ 250.80'' and add, in its place, a reference to ''§ 26.80'';
d. Remove the reference to ''§ 250.78'' and add, in its place, a reference to ''§ 26.78''; an
e. Remove the reference to ''§§ 250.114 through 250.116'' and add, in its place, a reference to ''§§ 26.114 through 26.116.''

§§ 26.95 and 26.104 [Amended]

Par. 46. Remove the reference to ''§ 250.80(b)'' and add, in its place, a reference to ''§ 26.80(b),'' in the following places:
a. Section 26.95(b); and
b. Section 26.104(b).

§ 26.96b [Amended]

Par. 47. Amend § 26.96b as follows:
a. Remove the reference to ''§ 250.95 or § 250.96'' and add, in its place, a reference to ''§ 26.95 or § 26.96''; and
b. Remove the reference to ''§§ 250.114 through 250.116'' and add, in its place, a reference to ''§§ 26.114 through 26.116.''

§ 26.105a [Amended]

Par. 48. Amend § 26.105a as follows:
a. Remove the reference to ''§ 250.104 or § 250.105'' and add, in its place, a reference to ''§ 26.104 or § 26.105''; and
b. Remove the reference to ''§§ 250.114 through 250.116'' and add, in its place, a reference to ''§§ 26.114 through 26.116.''

§ 26.108 [Amended]

Par. 49. Amend § 26.108 as follows:
a. In paragraph (a), remove the reference to ''§ 250.78'' and add, in its place, a reference to ''§ 26.78'';
b. In paragraph (b), remove the reference to ''§§ 250.93 and/or 250.102'' and add, in its place, a reference to ''§§ 26.93 and/or 26.102''; and
c. In paragraph (c), remove the reference to ''§§ 250.78, 250.93, and/or § 250.102'' and add, in its place, a reference to ''§§ 26.78, 26.93, and/or § 26.102.''

§ 26.109 [Amended]

Par. 50. Amend § 26.109 as follows:
a. In paragraph (a), remove the reference to ''§ 250.79'' and add, in its place, a reference to ''§ 26.79'';
b. In paragraph (a), remove the reference to ''§§ 250.80, 250.81 and 250.111 through 250.113'' and add, in its place, a reference to ''§§ 26.80, 26.81, and 26.111 through 26.113'';
c. In paragraph (b), remove the reference to ''§ 250.94'' and add, in its place, a reference to ''§ 26.94'';
d. In paragraph (b), remove the reference to ''§§ 250.95, 250.96, and 250.111 through 250.113'' and add, in its place, a reference to ''§§ 26.95, 26.96 and 26.111 through 26.113'';
e. In paragraph (c), remove the reference to ''§ 250.103'' and add, in its place, a reference to ''§ 26.103''; and
f. In paragraph (c), remove the reference to ''§§ 250.104, 250.105, and 250.111 through 250.113'' and add, in its place, a reference to ''§§ 26.104, 26.105 and 26.111 through 26.113.''

§ 26.110 [Amended]

Par. 51. Amend § 26.110 as follows:
a. Remove the reference to ''§ 250.164a'' and add, in its place, a reference to ''§ 26.164a''; and
b. Remove the reference to ''§§ 250.114 through 250.116'' and add, in its place, a reference to ''§§ 26.114 through 26.116.''

§ 26.112 [Amended]

Par. 52. Amend § 26.112 as follows:
a. In paragraph (a), remove the reference to ''§§ 250.80, 250.95 or 250.104'' and add, in its place, a reference to ''§§ 26.80, 26.95 or 26.104'';
b. In paragraphs (c)(2) and (d)(2), remove the reference to ''§ 250.112a'' and add, in its place, a reference to ''§ 26.112a''; and
c. In paragraph (e), remove the reference to ''§ 250.113'' and add, in its place, a reference to ''§ 26.113.''

§ 26.112a [Amended]

Par. 53. Amend § 26.112a as follows:
a. In paragraphs (a)(1), (b)(2), and (b)(3), remove the reference to ''§ 250.112'' and add, in its place, a reference to ''§ 26.112''; and
b. In paragraph (b)(2), remove the reference to ''§ 250.113'' and add, in its place, a reference to ''§ 26.113.''

§ 26.113 [Amended]

Par. 54. Amend § 26.113 as follows:

a. In paragraph (c), remove the reference to ''§ 250.81'' and add, in its place, a reference to ''§ 26.81'';

b. In paragraph (d), remove the reference to ''§ 250.96'' and add, in its place, a reference to ''§ 26.96'';

c. In paragraph (e), remove the reference to ''§ 250.105'' and add, in its place, a reference to ''§ 26.105''; and

d. In paragraph (f), remove the reference to ''§ 250.112(c)'' and add, in its place, a reference to ''§ 26.112(c).''

§ 26.114 [Amended]

Par. 55. Amend § 26.114 by removing the reference to ''§§ 250.115 and 250.116'' and adding, in its place, a reference to ''§§ 26.115 and 26.116.''

§ 26.115 [Amended]

Par. 56. Amend § 26.115 by removing the reference to ''§ 250.116'' and adding, in its place, a reference to ''§ 26.116.''

§ 26.163 [Amended]

Par. 57. Amend § 26.163 by removing the reference to ''§ 250.164'' and adding, in its place, a reference to ''§ 26.164.''

§ 26.165 [Amended]

Par. 58. Amend § 26.165 as follows:

a. In paragraph (a)(2), remove the reference to ''§ 250.79a'' and add, in its place, a reference to ''§ 26.79a''; and

b. In paragraph (a)(3), remove the reference to ''§ 250.50a'' and add, in its place, a reference to ''§ 26.50a.''

§ 26.173 [Amended]

Par. 59. Amend paragraph (b)(4) of § 26.173 by removing the reference to ''§ 250.51'' and adding, in its place, a reference to ''§ 26.51.''

§ 26.193 [Amended]

Par. 60. Amend § 26.193 as follows:

a. In paragraph (a), remove the reference to ''§§ 250.107 through 250.110'' and add, in its place, a reference to ''§§ 26.107 through 26.110''; and

b. In paragraph (b), remove the reference to ''§ 250.113'' and add, in its place, a reference to ''§ 26.113.''

§ 26.194 [Amended]

Par. 61. Amend § 26.194 as follows:

a. In paragraph (a), remove the reference to ''§ 250.193(b)'' and add, in its place, a reference to ''§ 26.193(b)''; and

b. In paragraph (b), remove the reference to ''§ 250.113'' and add, in its place, a reference to ''§ 26.113.''

§ 26.196 [Amended]

Par. 62. Amend § 26.196 by removing the reference to ''§ 250.86'' and adding, in its place, a reference to ''§ 26.86.''

§ 26.200 [Amended]

Par. 63. Amend paragraph (a) of § 26.200 by removing the reference to ''§ 250.201,'' each place it appears, and adding, in its place, a reference to ''§ 26.201.''

§§ 26.204, 26.260, 26.263, 26.264 and 26.265 [Amended]

Par. 64. Remove the reference to ''§ 250.205'' and add, in its place, a reference to ''§ 26.205,'' in the following places:

a. Section 26.204;

b. Section 26.260;

c. Section 26.263;

d. Section 26.264; and

e. Section 26.265.

§ 26.205 [Amended]

Par. 65. Amend § 26.205 as follows:

a. In the introductory text of paragraph (a)(8), remove the reference to ''§ 250.262a'' and add, in its place, a reference to ''§ 26.262a'';

b. In paragraph (a)(8)(iv), remove the reference to ''§ 250.204a'' and add, in its place, a reference to ''§ 26.204a''; and

c. In paragraph (b), remove the reference to ''§§ 250.260 and 250.302'' and add, in its place, a reference to ''§§ 26.260 and 26.302.''

§ 26.211 [Amended]

Par. 66. Amend § 26.211 by removing the reference to ''§ 250.210'' and adding, in its place, a reference to ''§ 26.210.''

§§ 26.220 and 26.221 [Amended]

Par. 67. Remove the reference to ''§ 250.224'' and add, in its place, a reference to ''§ 26.224,'' in the following places:

a. Section 26.220(a) and

(b); and b. Section 26.221(c).

§ 26.225 [Amended]

Par. 68. Amend § 26.225 by removing the reference to ''§ 250.222'' and adding, in its place, a reference to ''§ 26.222.''

§ 26.261 [Amended]

Par. 69. Amend § 26.261 as follows:

a. Remove the reference to ''§ 250.205'' and add, in its place, a reference to ''§ 26.205''; and

b. Remove the reference to ''§§ 250.262 through 250.265'' and add, in its place, a reference to ''§§ 26.262 through 26.265.''

§ 26.262 [Amended]

Par. 70. Amend § 26.262 as follows:

a. In paragraph (a), remove the reference to ''§ 250.205'' and add, in its place, a reference to ''§ 26.205''; and

b. In paragraph (c), remove the reference to ''§ 250.262a'' and add, in its place, a reference to ''§ 26.262a.''

§ 26.272 [Amended]

Par. 71. Amend § 26.272 by removing the reference to ''§ 250.273'' and adding, in its place, a reference to ''§ 26.273.''

§ 26.273a [Amended]

Par. 72. Amend the introductory text of § 26.273a by removing the reference to ''250.301'' and adding, in its place, a reference to ''26.301.''

§ 26.291 [Amended]

Par. 73. Amend § 26.291 as follows:

a. In paragraph (a), remove the reference to ''§ 250.292 through 250.294'' and add, in its place, a reference to ''§§ 26.292 through 26.294'';

b. In paragraph (b)(1), remove the reference to ''§§ 250.292 through 250.294'' and add, in its place, a reference to ''§§ 26.292 through 26.294'';

c. In paragraphs (b)(2) and (c), remove the reference to ''§§ 250.295 through 250.296'' and add, in its place, a reference to ''§§ 26.295 through 26.296''; and

d. In paragraph (c), remove the reference to ''§ 250.221'' and add, in its place, a reference to ''§ 26.221.''

§ 26.301 [Amended]

Par. 74. Amend § 26.301 by removing the reference to ''§ 250.273a'' and adding, in its place, a reference to ''§ 26.273a.''

§ 26.302 [Amended]

Par. 75. Amend § 26.302 as follows:

a. In paragraph (a), remove the reference to ''§ 250.204'' and add, in its place, a reference to ''§ 26.204'';

b. In paragraphs (a) and (b), remove the reference to ''§ 250.205'' and add, in its place, a reference to ''§ 26.205''; and

c. In paragraph (b), remove the reference to ''§ 250.301'' and add, in its place, a reference to ''§ 26.301.''

§ 26.303 [Amended]

Par. 76. Amend § 26.303 by removing the reference to ''§ 250.302'' and adding, in its place, a reference to ''§ 26.302.''

§ 26.309 [Amended]

Par. 77. Amend § 26.309 as follows:

a. In paragraph (b)(4) remove the reference to ''§ 250.221'' and add, in its place, a reference to ''§ 26.221''; and

b. In paragraph (c)(2)(viii) remove the reference to ''§ 250.266'' and add, in its place, a reference to ''§ 26.266.''

§ 26.318 [Amended]

Par. 78. Amend § 26.318 by removing the reference to ''§ 250.316'' and adding, in its place, a reference to ''§ 26.316.''

Signed: March 13, 2001.

Bradley A. Buckles,

Director.

Approved: June 11, 2001.

Timothy E. Skud,

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

[FR Doc. 01–18178 Filed 7–24–01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 535

Amendments to the Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Interim rule with request for comments; amendments.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending the Iranian Assets Control Regulations, 31 CFR part 535 (the ''IACR''), to conform certain provisions related to custodians of property in which Iran has an interest to rulings of the Iran-U.S. Claims Tribunal.

DATES: Effective date: July 25, 2001.

Comments: Written comments must be received no later than September 24, 2001.

ADDRESSES: Comments should be sent to David W. Mills, Chief, Policy Planning and Program Management Division, rm. 2176 Main Treasury Annex, 1500 Pennsylvania Ave. N.W., Washington, DC 20220 or via OFAC's website (http://www.treas.gov/ofac).

FOR FURTHER INFORMATION CONTACT: Dennis P. Wood, Chief of Compliance Programs, tel.: 202/622–2490, Steven I. Pinter, Acting Chief of Licensing, tel.: 202/622–2480, or Barbara C. Hammerle, Acting Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending the Iranian Assets Control Regulations, 31 CFR part 535 (the ''IACR''), to conform certain provisions related to custodians of property in which Iran has an interest to rulings of the Iran-U.S. Claims Tribunal (the ''Tribunal''). In its May 1992 partial award in Case A/15, Awd. No. 529–A15–FT, 28 Iran-U.S. Cl. Tr. Rep. 112 (May 6, 1992), the Tribunal found that certain provisions of the IACR were not in strict compliance with commitments made by the U.S. in the Algiers Accords. See, Awd. 529, at ¶ 51, p. 131; See also, Id., at ¶ 53, p. 131.

These amendments are intended to state clearly that obligations or liens on property do not disqualify this property from IACR requirements dictating that this property be returned if that property is otherwise subject to the requirements of the IACR.

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close September 24, 2001. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and materials and will not consider them in the development of final regulations. In the interest of accuracy and completeness, the Department requires comments in written form.

All public comments on these regulations will be a matter of public record. Copies of the public record concerning these regulations will be made available, not sooner than October 23, 2001 and may be obtained from OFAC's website (*http://www.treas.gov/ofac*). If that service is unavailable, written requests for copies may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave. N.W., Washington, DC 20220, Attn: Merete Evans.

Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting and Procedures Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget (''OMB'') under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 535

Administrative practice and procedure, Banks, Banking, Currency, Foreign claims, Foreign investments in the United States, Iran, Penalties, Reporting and recordkeeping requirements, and Securities.

For reasons set forth in the preamble, 31 CFR part 535 is amended as follows:

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

1. The authority section continues to read as follows:

Authority: 18 U.S.C. 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12170, 44 FR 65729, 3 CFR, 1979 Comp., p. 457; E.O. 12205, 45 FR 24099, 3 CFR, 1980 Comp., p. 248; E.O. 12211, 45 FR 26685, 3 CFR, 1980 Comp., p. 253; E.O. 12276, 46 FR 7913, 3 CFR, 1981 Comp., p. 104; E.O. 12279, 46 FR 7919, 3 CFR, 1981 Comp., p. 109; E.O. 12280, 46 FR 7921, 3 CFR, 1981 Comp., p. 110; E.O. 12282, 46 FR 7925, 3 CFR, 1981

Comp., p. 113; E.O. 12283, 46 FR 7927; 3 CFR, 1981 Comp., p. 114; and E.O. 12294, 46 FR 14111, 3 CFR, 1981 Comp., p. 139.

2. Amend § 535.215 to revise paragraph (a) to read as follows:

§ 535.215 Direction involving other properties in which Iran or an Iranian entity has an interest held by any person subject to the jurisdiction of the United States.

(a) Except as provided in paragraphs (b) and (c) of this section, all persons subject to the jurisdiction of the United States in possession or control of properties, as defined in § 535.333 of this part, not including funds and securities owned by Iran or its agencies, instrumentalities or controlled entities, are licensed, authorized, directed and compelled to transfer such properties held on January 18, 1981 as directed after that day by the Government of Iran, acting through its authorized agent. Such directions shall include arrangements for payment of the costs of transporting the properties, unless the possessors of the properties were required to pay such costs by contract or applicable law on January 19, 1981. Except where specifically stated, this license, authorization and direction does not relieve persons subject to the jurisdiction of the United States from existing legal requirements other than those based upon the International Emergency Economic Powers Act.

* * * * *

3. Amend § 535.333 to read as follows:

§ 535.333 Properties.

(a) The term properties as used in § 535.215 means all uncontested and non-contingent liabilities and property interests of the Government of Iran, its agencies, instrumentalities, or controlled entities, including debts. It does not include bank deposits or funds and securities. It also does not include obligations under standby letters of credit or similar instruments in the nature of performance bonds, including accounts established pursuant to § 535.568.

(b) Properties do not cease to fall within the definition in paragraph (a), above, merely due to the existence of unpaid obligations, charges or fees relating to such properties, or undischarged liens against such properties.

(c) Liabilities and property interests of the Government of Iran, its agencies, instrumentalities, or controlled entities may be considered contested only if the holder thereof reasonably believes that Iran does not have title or has only partial title to the asset. After October 23, 2001, such a belief may be considered reasonable only if it is based upon a bona fide opinion, in writing, of an attorney licensed to practice within the United States stating that Iran does not have title or has only partial title to the asset. For purposes of this paragraph, the term holder shall include any person who possesses the property, or who, although not in physical possession of the property, has, by contract or otherwise, control over a third party who does in fact have physical possession of the property. A person is not a holder by virtue of being the beneficiary of an attachment, injunction or similar order.

(d) Liabilities and property interests shall not be deemed to be contested solely because they are subject to an attachment, injunction, or other similar order.

Dated: June 8, 2001.

Loren L. Dohm,

Acting Director, Office of Foreign Assets Control.

Approved: June 25, 2001.

James P. Sloan,

Acting Under Secretary (Enforcement), Department of the Treasury.

[FR Doc. 01–18373 Filed 7–24–01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 540

Highly Enriched Uranium (HEU) Agreement Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing regulations to implement the President's declaration in Executive Order 13159 of June 21, 2000, of a national emergency and order blocking certain property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements.

DATES: Effective date: July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis P. Wood, Chief of Compliance Programs, tel.: 202/622–2490, Steve I. Pinter, Acting Chief of Licensing, tel.: 202/622–2480, or Barbara C. Hammerle, Acting Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

On June 21, 2000, the President issued Executive Order 13159 (65 FR 39279, June 26, 2000), declaring a national emergency with respect to the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation and invoking the authority of, inter alia, the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''). Pursuant to the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the ''HEU Agreements''), weapons-grade uranium extracted from Russian nuclear weapons is converted to low enriched uranium (''LEU'') for use in commercial reactors and sold to the United States in the form of LEU. The order blocks and protects from attachment, judgment, decree, lien, execution, garnishment, or other judicial process that property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the HEU Agreements that are in the United States, that are or hereafter come within the United States, or that are or

hereafter come within the possession or control of U.S. persons, including their overseas branches. The order authorizes the Secretary of the Treasury, in consultation with the Secretaries of State and Energy, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the order. To implement Executive Order 13159 the Office of Foreign Assets Control of the U.S. Department of the Treasury is promulgating the HEU Agreement Assets Control Regulations (the ''Regulations'').

Interim rules were published in the **Federal Register** on January 12, 2001, with an invitation for public comment. Public comments were received and considered and these final rules incorporate certain comments as appropriate.

Section 540.201 of subpart B of the Regulations implements section 2 of Executive Order 13159 (the ''Executive Order'') by blocking that property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the HEU Agreements that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches. The property covered is defined by the Executive Order and public comments that may have altered or expanded this definition were not adopted. Section 540.201 implements section 2 of the Executive Order by prohibiting U.S. persons from transferring, paying, exporting, withdrawing or otherwise dealing in property blocked pursuant to the Executive Order.

Section 540.202 also implements section 2 of the Executive Order by making null and void any transfer or attempted transfer of blocked property after the effective date of the Executive Order absent a license or other authorization issued pursuant to the Executive Order and this part. Public comments suggesting clarification of the effect of transfers violating the provisions of § 540.202 were adopted.

Subpart C provides definitions of terms used in the Regulations. Public comments suggesting consistency in language and correcting a spelling error are reflected in these final rules. Other public comments suggesting edits to the definitions of the terms entity, 31 CFR 540.303, HEU Agreements, 31 CFR 540.305, Property and property interests, 31 CFR 540.311, and Uranium enrichment, 31 CFR 540.316 were not adopted as they are unnecessary to those definitions.

Subpart D sets forth interpretive guidance for the Regulations. For example, § 540.405 makes clear that any transaction that is ordinarily incident to a licensed transaction and necessary to give effect to the licensed transaction is also authorized, except in the case where such an ordinarily incident transaction involves any attachment, judgment, decree, lien, execution, garnishment, or other judicial process which has the effect of encumbering the property or interest in property of the Government of the Russian Federation directly related to the implementation of the HEU Agreements in any manner that is not explicitly authorized within the terms of the license.

Transactions otherwise prohibited under part 540 but found to be consistent with U.S. policy may be authorized by general licenses contained in subpart E or by a specific license issued pursuant to the procedures described in subpart D of part 501 of 31 CFR chapter V. The general licenses contained in subpart E include an authorization in § 540.504 for U.S. financial institutions to debit blocked accounts for normal service charges. Public comments suggesting inclusion within this general license of authorization for U.S. financial institutions to perform U.S. dollar clearance and exchange transactions were adopted. Public comments suggesting designation of priority license applicants for whom different licensing procedures would be established were not adopted. Similarly, public comments suggesting a regulation identifying specific persons or classes of persons who qualify as license applicants also were not adopted. Penalties for violations of the Regulations are described in subpart G of the Regulations.

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. However, because of the importance of the issues raised by these regulations, all written public comments received were fully considered.

Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting and Procedures Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget (''OMB'') under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

Administrative practice and procedure, Blocking of assets, Government of the Russian Federation, HEU Agreement, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Uranium.

For the reasons set forth in the preamble, 31 CFR chapter V is amended by revising part 540 to read as follows:

PART 540—HIGHLY ENRICHED URANIUM (HEU) AGREEMENT ASSETS CONTROL REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

540.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

Sec.

540.201 Prohibited transactions involving blocked property.
540.202 Effect of transfers violating the provisions of this part.
540.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

Subpart C—General Definitions

Sec.

540.301 Blocked account; blocked property.
540.302 Effective date.
540.303 Entity.
540.304 Government of the Russian Federation.
540.305 HEU Agreements.
540.306 Highly Enriched Uranium (HEU).
540.307 Licenses; general and specific.
540.308 Low Enriched Uranium (LEU).
540.309 Natural uranium.
540.310 Person.
540.311 Property; property interest.
540.312 Transfer.
540.313 United States.
540.314 United States person; U.S. person.
540.315 Uranium-235 (U235).
540.316 Uranium enrichment.
540.317 Uranium feed; natural uranium feed.
540.318 Uranium Hexafluoride (UF6).
540.319 U.S. financial institution.

Subpart D—Interpretations

Sec.

540.401 Reference to amended sections.
540.402 Effect of amendment.
540.403 Termination and acquisition of an interest in blocked property.
540.404 Setoffs prohibited.

540.405 Transactions incidental to a licensed transaction.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

Sec.
540.501 Effect of license or authorization.
540.502 Exclusion from licenses.
540.503 Payments and transfers to blocked accounts in U.S. financial institutions.
540.504 Entries in certain accounts for normal service charges authorized.

Subpart F—Reports

Sec.
540.601 Records and reports.

Subpart G—Penalties

Sec.
540.701 Penalties.
540.702 Prepenalty notice.
540.703 Response to prepenalty notice; informal settlement.
540.704 Penalty imposition or withdrawal.
540.705 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

540.801 Procedures.
540.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

540.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 13159, 65 FR 39279, 3 CFR Comp., p. 277.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 540.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) Nothing contained in these regulations shall relieve a person from any requirement to obtain a license or other authorization from any department or agency of the United States Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency, and no license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 540.201 Prohibited transactions involving blocked property.

(a) Except as otherwise authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, the property or property interests of the Government of the Russian Federation that are directly related to the implementation of the Highly Enriched Uranium (HEU) Agreements, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any blocked property or interest in blocked property covered by this part.

§ 540.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date (see § 540.302) that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 540.201(a) is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 540.201, unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) The Director of the Office of Foreign Assets Control may, in his discretion, retroactively license a transfer of property that is null and void or unenforceable by virtue of the provisions of this section so that such a transfer shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license or other direction, or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 540.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

§ 540.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations subject to § 540.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section the term blocked interest-bearing account means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or U.S. Treasury Bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 540.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) or this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 540.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates which are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 540.201. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Except as otherwise licensed, authorized or directed by OFAC, funds subject to this section may not be invested, used for collateral or reinvested in a manner which provides immediate financial or economic benefit or access to the Government of the Russian Federation or its entities, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Subpart C—General Definitions

§ 540.301 Blocked account; blocked property.

The terms blocked account and blocked property shall mean any account or property subject to the prohibition in § 540.201 and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 540.302 Effective date.

The term effective date refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m., Eastern Daylight Time, June 22, 2000.

§ 540.303 Entity.

The term entity means a partnership, association, trust, joint venture, corporation, or other organization.

§ 540.304 Government of the Russian Federation.

(a) The term Government of the Russian Federation means the Government of the Russian Federation, any political subdivision, agency, or instrumentality thereof, and any person owned or controlled by, or acting for or on behalf of, the Government of the Russian Federation.

(b) Any person or entity to the extent such person or entity is or has been, or to the extent that there is reasonable cause to believe that such person or entity is, or has been, since the effective date (see § 540.302), acting or purporting to act directly or indirectly for or on behalf of any of the foregoing.

§ 540.305 HEU Agreements.

The term HEU Agreements means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993; the Initial Implementing Contract, Contract Number DE–AC01–93NE50067, dated January 14, 1994; and all current and future amendments thereto; as well as the related current and future implementing agreements, memoranda of understanding, protocols, and contracts, including all current and future amendments thereto, to include without limitation the following:

(a) Memorandum of Agreement Between the United States, Acting By and Through the United States Department of State, and the United States Department of Energy and the United States Enrichment Corporation (USEC), for USEC to Serve as the United States Government's Executive Agent under the Agreement Between the United States and the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated April 18, 1997;

(b) Agreement Between the United States Department of Energy and the Ministry of the Russian Federation for Atomic Energy Concerning the Transfer of Source Material to the Russian Federation signed at Washington on March 24, 1999, with Implementing Agreement and Administrative Arrangement, dated March 24, 1999, and related letter agreements; and

(c) UF6 Feed Component Implementing Contract Among Cameco Europe S.A. and Compagnie Général des Matières Nucléaires and Nukem, Inc. and Nukem Nuklear Gmbh and OAO Techsnabexport, and Tenex Contract # 08843672/90100–02D, dated March 24, 1999.

§ 540.306 Highly Enriched Uranium (HEU).

The term highly enriched uranium or HEU means uranium enriched to twenty (20) percent or greater in the isotope U235.

§ 540.307 Licenses; general and specific.

(a) Except as otherwise specified, the term license means any license or authorization contained in or issued pursuant to this part.

(b) The term general license means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term specific license means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to § 540.307. See § 501.801 of this chapter on licensing procedures.

§ 540.308 Low Enriched Uranium (LEU).

The term low enriched uranium or LEU means uranium enriched to less than twenty (20) percent in the isotope U235.

§ 540.309 Natural uranium.

The term natural uranium means uranium found in nature, with an average concentration of 0.711 percent by weight of the isotope U235.

§ 540.310 Person.

The term person means an individual or entity.

§ 540.311 Property; property interest.

The terms property and property interest include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of whatever nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interests therein, present, future, or contingent.

§ 540.312 Transfer.

The term transfer means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 540.313 United States.

The term United States means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 540.314 United States person; U.S. person.

The term United States person or U.S. person means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches, or any person in the United States.

§ 540.315 Uranium-235 (U235).

The term uranium-235 or U235 means the fissile isotope found in natural uranium.

§ 540.316 Uranium enrichment.

The term uranium enrichment means the process of increasing the concentration of the isotope U235 relative to that of the isotope U238.

§ 540.317 Uranium feed; natural uranium feed.

The term uranium feed or natural uranium feed means natural uranium in the form of UF6 suitable for uranium enrichment.

§ 540.318 Uranium Hexafluoride (UF6).

The term uranium hexafluoride or UF6 means a compound of uranium and fluorine.

§ 540.319 U.S. financial institution.

The term U.S. financial institution means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 540.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 540.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 540.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from the Government of the Russian Federation, such property shall no longer be deemed to be property in which the Government of the Russian Federation has or has had an interest unless there exists in the property another interest of the Government of the Russian Federation, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to the Government of the Russian Federation, such property shall be deemed to be property in which there exists an interest of the Government of the Russian Federation.

§ 540.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 540.201 if effected after the effective date (see § 540.302).

§ 540.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except for any attachment, judgment, decree, lien, execution, garnishment, or other judicial process which has the effect of encumbering the property or interest in property of the Government of the Russian Federation directly related to the implementation of the HEU agreements, or any transaction involving a debit to a blocked account or transfer of blocked property not explicitly authorized within the terms of a license.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 540.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or licenses specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 540.502 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 540.503 Payments and transfers to blocked accounts in U.S. financial institutions.

Except as otherwise authorized, licensed or directed by the Office of Foreign Assets Control, any payment of funds or transfer of credit in which the Government of the Russian Federation has any interest that is directly related to the implementation of the HEU Agreements and that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name. U.S. financial institutions are authorized to engage in routine currency exchange transfers involving funds directly associated with the implementation of the HEU agreements that flow through correspondence accounts in U.S. financial institutions.

Note to § 540.503. Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 501.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 540.504 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held by that financial institution in payment or reimbursement for normal service charges owed to it by the owner of the blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

Subpart F—Reports

§ 540.601 Records and reports.

For additional provisions relating to required records and reports, see part 501, subpart C, of this chapter.

Subpart G—Penalties

§ 540.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty not to exceed $11,000 per violation may be imposed on any person who violates or attempts to violate any license, order, or regulation issued under the Act;

(2) Whoever willfully violates or willfully attempts to violate any license, order, or regulation issued under the Act, upon conviction, shall be fined not more than $50,000, and if a natural person, may also be imprisoned for not more than 10 years; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 540.702 Prepenalty notice.

(a) When required. If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) Contents of notice—(1) Facts of violation. The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) Right to respond. The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within the applicable 30 day period set forth in § 540.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) Informal settlement prior to issuance of prepenalty notice. At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 540.703 Response to prepenalty notice; informal settlement.

(a) Deadline for response. The respondent may submit a response to the prepenalty notice within the applicable 30 day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) Computation of time for response. A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) Extensions of time for response. If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) Form and method of response. The response must be submitted in writing and may be handwritten or typed. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original must also be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) Contents of response. A written response must contain information sufficient to indicate that it is in response to the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response should also set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) Default. If the respondent elects not to submit a written response within the time limit set forth in paragraph (a) of this section, the Office of Foreign Assets Control will conclude that the respondent has decided not to respond to the prepenalty notice. The agency generally will then issue a written penalty notice imposing the penalty proposed in the prepenalty notice.

(e) Informal settlement. In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) Representation. A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the

prepenalty notice was served upon the respondent in care of the representative.

§ 540.704 Penalty imposition or withdrawal.

(a) No violation. If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and the cancellation of the proposed monetary penalty.

(b) Violation. (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in a federal district court.

§ 540.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 540.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart D of part 501 of this chapter.

§ 540.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13159 of June 21, 2000 (65 FR 39279, June 26, 2000) and any further executive orders relating to the national emergency declared in Executive Order 13159 may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 540.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: June 6, 2001.

Loren L. Dohm,

Acting Director, Office of Foreign Assets Control.

Approved: June 25, 2001.

James F. Sloan,

Acting Under Secretary (Enforcement), Department of the Treasury.

[FR Doc. 01–18372 Filed 7–24–01; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210–0285; FRL–7013–4]

Revision to the California State Implementation Plan, Bay Area Air Quality Management District, Lake County Air Quality Management District, Monterey Bay Unified Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the Bay Area Air Quality Management District (BAAQMD), Lake County Air Quality Management District (LCAQMD), Monterey Bay Unified Air Pollution Control District (MBUAPCD), Sacramento Metropolitan Air Quality Management District (SMAQMD), and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on November 14, 2000 and concerns volatile organic compound (VOC) emissions from the transfer of gasoline at gasoline dispensing stations. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on August 24, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94105

Lake County Air Quality Management District, 883 Lakeport Boulevard, Lakeport, CA 95453

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940
Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826
San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

SUPPLEMENTARY INFORMATION:
Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On November 14, 2000 (65 FR 68114), EPA proposed a limited approval and limited disapproval of the rules in Table 1 that were submitted for incorporation into the California SIP.

TABLE 1.—SUBMITTED RULES'

Local agency	Rule no.	Rule Title	Adopted	Submitted
BAAQMD	8–7	Gasoline Dispensing Facilities	11/17/99	3/28/00
LCAQMD	439.5	Retail Gasoline Service Stations	07/15/97	05/18/98
MBUAPCD	1002	Transfer of Gasoline into Vehicle Fuel Tanks	04/21/99	06/03/99
SMAQMD	449	Transfer of Gasoline into Vehicle Fuel Tanks	04/03/97	05/18/98
SJVUAPCD	4622	Gasoline Transfer into Vehicle Fuel Tanks	06/18/98	08/21/98

We proposed a limited approval because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties:

- Peter Hess, BAAQMD; letter dated December 12, 2000 and received on December 14, 2000.
- Scott Nester, SJVUAPCD; letter dated December 8, 2000 and received on December 11, 2000.

The BAAQMD comments and our responses are summarized below.

Comment I: BAAQMD disagrees that it is appropriate to cite the California Code of Regulations (CCR), title 17, section 94006, instead of Calfornia Health and Safety Code (CH&SC) 41960.2(c), as a reference for a list of vapor recovery system defects that substantially impair the effectiveness of the system. BAAQMD notes that CCR, title 17, section 94006 has not been revised since 1981 but that CH&SC 41960.2 was revised in the year 2000 by Assembly Bill 1164 to include the requirement that substantial defects ''shall be specified in the applicable certification documents for each system.'' It is likely that some new defects will be listed only in California Air Resources Board (CARB) Executive Orders (EO) for certifications. BAAQMD states that it is unclear whether CARB will update the CCR, title 17, section 94006 list, and that this situation presents an enforceability problem for the District. If Rule 8–7 cites only the CCR and the CCR list is not revised, the District would not have the authority to require that operators remedy new system defects that are not in the CCR list. BAAQMD states that all substantial defects would be subject to the rule by referencing CH&SC 41960.2(c).

Response: Enforceability is also a concern for EPA. We require for clarity and for federal enforceability that the system defects that substantially impair the effectiveness of the system be listed or referenced in a readily-available public document. Two alternate ways to handle the enforceability problem are as follows:

- List all substantial system defects to be remedied in Rule 8–7.
- Reference both CCR, title 17, section 94006, and CH&SC 41960.2(c). We note that CARB is currently updating the CCR list as required by CH&SC 41960.2.

Comment II: BAAQMD disagrees with including specific testing requirements in Rule 8–7. There are over 100 CARB-certified vapor recovery systems, for which stating individual testing requirements would be unwieldy. BAAQMD also disagrees with specifying a specific time period for reverification of performance tests. Some relatively reliable systems may be tested too often, thereby unnecessarily increasing gasoline emissions during the test procedure. Other unreliable systems may not be tested often enough, thereby allowing an increase of emissions during normal operation.

BAAQMD believes that an arbitrary testing frequency may impose a financial hardship on businesses that have chosen a more reliable system.

BAAQMD states that there is no data to justify testing as infrequently as every other year for all stations with In-Station Diagnostics.

BAAQMD suggests that having testing and notification requirements in the Authority to Construct and the Permit to Operate is a practical way to incorporate the individual requirements that apply to specific systems and allow the District flexibility to address problems in certain systems.

Response: EPA concurs that specifying one testing frequency for all equipment may not be necessary or efficient. However, we believe that BAAQMD's comment supports our conclusion that reverification testing every five years or longer is inadequate. While we understand that it is not current practice to allow such an extended time for reverification testing in the BAAQMD, the current text of Rule 8–7 would not prevent it in all cases. Rule 8–7 should be revised, therefore, to require more frequent regular reverification. In general, we believe that six to twelve months is an appropriate reverification frequency. If the District wishes to maintain flexibility to change reverification frequency, the rule should specify the criteria that would be used in exercising this flexibility.

We note that the South Coast Air Quality Management District has estimated that reverification testing every six months costs about $0.0012 per gallon of gasoline dispensed. This does not appear to be an unreasonable financial burden.

We also note that the suggestion of having testing and notification requirements only in the Permit to Operate has not in the past resulted in a satisfactory testing frequency in Districts with rule language similar to BAAQMD's.

The SJVUAPCD comments and our responses are summarized below.

Comment I: SJVUAPCD has concurred with EPA's recommendations regarding four improvements to Rule 4922 as follows:

- Correction of the CCR reference for CARB certification procedures to CCR, title 17, section 94011.
- Addition of a requirement to keep maintenance records and reverification test records for two years.
- Revision of the requirement that new vapor recovery equipment be tested at least within the number of days required by the SIP rule.
- Stating the specific EPA-approved test method(s) to be used for air-to-liquid volume ratio.

Comment II: SJVUAPCD believes that reverification of Dyamic Back-Pressure Test and Static Leak Test annually is adequate and is consistent with the California Air Pollution Control Officers' Association Vapor Recovery Committee's recommendations to improve the performance of existing systems. The reverification of Air-to-Liquid Ratio would be done every six months, because this is currently required by Operating Permits. The District agrees that, if In-Station Diagnostics are used, the above reverification tests should be done every two years.

However, SJVUAPCD believes that reverification of Liquid Removal Rate should only be done if there is an indication of pressure fluctuation during the Dynamic Back Pressure Test or if fuel drains from the dispensing nozzle when the vapor check valve is opened. The absence of both of these observations is a good indication that the liquid removal system is functioning properly, and therefore a specific testing frequency would not be appropriate. District staff intends to include this procedure in the rule as a method of determining whether the Liquid Removal Rate Test needs to be conducted in conjunction with the Dynamic Back-Pressure Test and Static Leak Test.

Response: The reverification test frequencies suggested are within the range of EPA recommendations. It should be noted that In-Station Diagnostics is a relatively new technology for use in gasoline dispensing facilities. Recommending a lesser frequency of testing at this time may be appropriate to encourage its use. But subsequent experience with its use could show that the recommended frequency should be adjusted.

Assuming adequate support in the District Staff Report, the District could waive the reverification of the Liquid Removal Rate Test, if the District specifies in the rule the procedure for determining where it could be waived.

See Response to BAAQMD Comment II for additional comments regarding flexibility of reverification test frequencies.

III. EPA Action

Comments submitted by the BAAQMD and SJVUAPCD changed our recommendations on how to revise the rules but did not change our proposed action on the rules. Therefore, as authorized in sections 110(k)(3) and 301(a) of the CAA, EPA is finalizing a limited approval of the submitted rules. This action incorporates the submitted rules into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the submitted rules. As a result, sanctions will be imposed on the BAAQMD, SMAQMD, and SJVUAPCD unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the CAA as described in 59 FR 39832 (August 4, 1994). In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Sanctions will not be imposed on LCAQMD and MBUAPCD, because they are an ozone attainment area and maintenance attainment area, respectively. Note that the submitted rules have been adopted by BAAQMD, LCAQMD, MBUAPCD, SMAQMD, and SJVUAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing them.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''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 E.O. 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 E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. 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. E.O. 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 E.O. 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 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 E.O. 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 rule.

D. 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 final 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.

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 enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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

F. Unfunded Mandates

Under 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 approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action 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 action because it does not require the public to perform activities conducive to the use of VCS.

H. Submission to Congress and the Comptroller General

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

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 8, 2001.

Keith Takata,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(255)(i)(A)(*5*), (c)(255)(i)(D)(*2*), (c)(264)(i)(D)(*1*), (c)(273)(i)(A)(*2*), and (c)(277)(i)(C)(*6*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(255) * * *

(i) * * *

(A) * * *

(*5*) Rule 449, adopted on April 3, 1997.

(D) * * *

(*2*) Section (Rule) 439.5, adopted on July 15, 1997.

* * * * *

(264) * * *

(i) * * *

(D) Monterey Bay Unified Air Pollution Control District.

(*1*) Rule 1002, adopted on April 21, 1999.

* * * * *

(273) * * *

(i) * * *

(A) * * *

(*2*) Rule 4622, adopted on June 18, 1998.

* * * * *

(277) * * *

(i) * * *

(C) * * *

(*6*) Rule 8–7, adopted on November 17, 1999.

* * * * *

[FR Doc. 01–18411 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 099–0039; FRL–7013–3]

Revisions to the Arizona State Implementation Plan, Pinal-Gila Counties Air Quality Control District and Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of recisions of Pinal-Gila Counties Air Pollution Control District (PGCAQCD) rules from the Arizona Department of Environmental Quality (ADEQ) portion (with respect to Gila County) and the Pinal County Air Pollution Control District (PCAQCD) portion of the Arizona State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on May 1, 2001.

EFFECTIVE DATE: This rule is effective on August 24, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

Pinal County Air Quality Control District, Building F, 31 North Pinal Street, Florence, AZ 85232.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On May 1, 2001 (66 FR 21675), EPA published a direct final approval to rescind PGCAQCD rules in tables 1 through 6 from the Arizona SIP. We received adverse comments on this action and withdrew the direct final approval on June 20, 2001 (66 FR 33029). On May 1, 2001 (66 FR 21727), EPA also published a proposal notice to rescind these SIP rules. Today's action addresses the comments and finalizes the proposed approval to rescind the SIP rules.

The PGCAQCD SIP rules in table 7 were submitted by ADEQ for recision but are already rescinded in previous actions with respect to both Gila County and PCAQCD. These rules are listed in table 7 for clarity only, and we will take no further action on them.

TABLE 1.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON NOVEMBER 15, 1978, 43 FR 53031) FOR RESCISSION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–1–1.1	Policy and Legal Authority	(Note 1)	(Note 1)
7–1–1.3	Air Pollution Prohibited	(Note 1)	(Note 1)
7–1–2.5(A)	Permits: Transfer	R9–3–317	3–1–090
7–1–2.5(B)	Permits: Expiration	R9–3–306	3–1–089
7–1–2.5(C)	Permits: Posting	R9–3–315	(Note 1)
7–1–2.6	Recordkeeping and Reporting	R9–3–308, R9–3–314.	3–1–103, 3–1–170
7–2–1.1	Non-Specific Particulate	R9–3–201	2–1–020
7–2–1.2	Sulfur Dioxide	R9–3–202 (Note 2).	2–1–030
7–2–1.4	Photochemical Oxidants	R9–3–204	2–1–040
7–2–1.5	Carbon Monoxide	R9–3–205	2–1–050
7–2–1.6	Nitrogen Dioxide	R9–3–206	2–1–060
7–2–1.7	Evaluation	R9–3–216	2–3–110
7–3–1.6	Reduction of Animal or Vegetable Matter	(Note 1)	(Note 1)

TABLE 2.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON DECEMBER 17, 1979, 44 FR 73033) FOR RESCISSION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–2–1.8	Anti-Degradation	(Note 1)	(Note 1)

TABLE 3.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON AUGUST 7, 1980, APPROVED ON APRIL 12, 1982, 47 FR 15580) FOR RESCISSION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–1–1.2	Definitions	R9–3–101	1–3–140
7–1–1.3(C)	Air Pollution Prohibited	(Note 1)	(Note 1)

TABLE 4.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON NOVEMBER 15, 1978, 43 FR 53031 FOR RESCISSION WITH RESPECT TO BOTH GILA COUNTY ONLY

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–3–1.2(A)	Fugitive Dust	R9–3–404	None
7–3–1.2(B)	Fugitive Dust	R9–3–405	None
7–3–1.2(C)	Fugitive Dust	R9–3–405	None
7–3–1.2(D)	Fugitive Dust	R9–3–406	None
7–3–1.2(E)	Fugitive Dust	R9–3–409	None
7–3–1.3	Open Burning	(Note 2)	None
7–3–1.4	Incineration	(Note 2)	None
7–3–1.5	Wood Waste Burners	R9–3–504	None
7–3–1.7	Particulate Emissions—Fuel Burning Equipment	R9–3–503	None
7–3–1.8	Process Industries	R9–3–502	None
7–3–2.2	Fuel Burning Installations	R9–3–503	None
7–3–2.3	Sulfite Pulp Mills	(Note 2)	None
7–3–2.4	Sulfuric Acid Plants	R9–3–507	None
7–3–3.1	Storage of Volatile Organic Compounds	R9–3–510	None
7–3–3.2	Loading of Volatile Organic Compounds	R9–3–510	None
7–3–3.3	Pumps and Compressors	R9–3–510	None
7–3–4.1	Emission Standards—Carbon Monoxide from Stationary Sources: Industrial	R9–3–502	None
7–3–5.1	Emission Standards—Nitrogen Oxides: Fuel Burning Equipment	R9–3–503	None
7–3–5.2	Nitric Acid Plants	R9–3–506	None

TABLE 5.—PGCAQCD RULE (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON DECEMBER 17, 1979, 44 FR 73033) FOR RESCISSION WITH RESPECT TO GILA COUNTY ONLY

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–3–2.5	Other Industries	(Note 2)	None

TABLE 6.—PGCAQCD RULE (PREVIOUSLY SUBMITTED ON AUGUST 7, 1980, APPROVED ON APRIL 12, 1982, 47 FR 15580) FOR RESCISSION WITH RESPECT TO GILA COUNTY ONLY

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–3–1.1	Visible Emissions: General	R9–3–501	None
7–3–1.4(C)	Incineration	(Note 2)	None
7–3–1.7(F)	Particulate Emissions—Fuel Burning Equipment	R9–3–503	None
7–3–3.4(A)	Organic Solvents	R9–3–101	None
7–3–3.4(B)	Organic Solvents	R9–3–502	None
7–3–3.4(C)	Organic Solvents	R9–3–525	None
7–3–3.4(D)	Organic Solvents	R9–3–527	None
7–3–3.4(E)	Organic Solvents	R9–3–502	None
7–3–3.4(F)	Organic Solvents	R9–3–502	None
7–3–3.4(G)	Organic Solvents	R9–3–502	None

TABLE 6.—PGCAQCD RULE (PREVIOUSLY SUBMITTED ON AUGUST 7, 1980, APPROVED ON APRIL 12, 1982, 47 FR 15580) FOR RESCISSION WITH RESPECT TO GILA COUNTY ONLY—Continued

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–3–3.4(H) ...	Organic Solvents	(Note 1)	None
7–3–3.4(I)	Organic Solvents	R9–3–101	None
7–3–3.4(J)	Organic Solvents	R9–3–502	None

TABLE 7.—PGCAQCD RULES SUBMITTED FOR RESCISSION BUT ALREADY RESCINDED WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule number	Rule title	Recision reference
7–1–2.2	Permit Unit Description and Fees	(Note 3)
7–1–2.4	Appeals to Hearing Board	(Note 3)
7–1–2.7	Enforcement	(Note 3)
7–1–4.1	Violations: Orders of Abatement	(Note 4)
7–1–4.2	Hearings on Orders of Abatement	(Note 4)
7–1–5.1	Classification and Reporting; Production of Records; Confidentiality of Records; Violation; Penalty	(Note 4)
7–1–5.2	Special Inspection Warrant	(Note 4)
7–1–5.3	Decisions of Hearing Board; Subpoenas; Effective Date	(Note 4)
7–1–5.4	Judicial Review; Grounds; Procedures	(Note 4)
7–1–5.5	Notice of Hearing; Publication; Service	(Note 4)
7–1–5.6	Injunctive Relief	(Note 4)
7–2–1.3	Non-Methane Hydrocarbons	(Note 3)
7–3–6.1	Major Sources: Policy and Legal Authority	(Note 3)

Note 1: Designates a rule determined by EPA to be not appropriate for inclusion in the SIP, because it is unenforceable, or replaced by a federal standard, or refers to a non-criteria pollutant, or refers to local procedural matters, such as those concerning assessment of fees, enforcement, and local hearing board procedures.

Note 2: Designates a rule without an exact parallel ADEQ SIP rule or PCAQCD SIP rule, for which information was provided by the ADEQ to show that rescinding the PGCAQCD rule would not conflict with section 110(l) of the CAA.

Note 3: 40 CFR 52.120(c)(18)(iv)(B).

Note 4: 40 CFR 52.120(c)(18)(iv)(A).

We proposed to rescind these PGCAQCD rules because the local agency no longer exists and we determined that their rescission complied with the relevant CAA requirements.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

- Don Gabrielson, PCAQCD; letter dated May 30, 2001 and received May 31, 2001.
- Bruce Friedl, ADEQ; phone call on May 10, 2001.

The PCAQCD comments and our responses are summarized below.

Comment I: PCAQCD notes that in table 1 the numerical references in the PCAQCD column do not correspond to rule numbers.

Response: PCAQCD rule numbers contained typographical errors, and the correct PCAQCD rule numbers are provided in table 1 of today's action. The PCAQCD successor rules listed in table 1 are not being proposed for SIP approval, since they are already SIP-approved rules. These rules are listed as successor rules for the purpose of justifying the rescission of PGCAQCD rules in the PCAQCD pursuant to section 110(l) of the CAA.

Comment II: PCAQCD notes that in tables 1 and 3, the proposed approval of PCAQCD Rules 2–3–110 and 1–3–140 as SIP elements does not specify adoption or submittal dates for the underlying rules.

Response: The adoption dates for all of the SIP-approved PCAQCD rules in tables 1 and 3 are provided in 65 FR 79742 (December 20, 2000) or in 40 CFR 52.120(c)(18)(iv) (B, C, or D). Also see response to comment I.

Comment III: PCAQCD notes that in Table 6, regarding PGCAQCD Rule 7–3–3.4, no action is being proposed except for the objectionable rescission of the exception spelled out in Rule 7–3–3.4(H). Deleting section (H) will effectively expand the scope of the remaining SIP-approved provisions of Rule 7–3–3.4. While PCAQCD has put forth specific proposals regarding modifying and partially rescinding Rule 7–3–3.4 as a SIP element, those proposals did not in any way ask for a county-wide expansion of the applicability of Rule 7–3–3.4. Therefore, we must object to the proposed rescission from the PCAQCD portion of the Arizona SIP of Rule 7–3–3.4(H).

Response: EPA is rescinding Rule 7–3–3.4 with respect to Gila County only and is not rescinding Rule 7–3–3.4(H) or any other part of Rule 7–3–3.4 with respect to PCAQCD in today's action.

The ADEQ comments and our responses are summarized below.

Comment I: ADEQ notes that in table 1, ADEQ Rule R9–3–206 should be used to justify the rescission of PGCAQCD Rule 7–2–1.6.

Response: EPA concurs, and ADEQ Rule R9–3–206 is used.

Comment II: ADEQ questions why PGCAQCD Rules 7–3–1.1, 7–3–1.3, 7–3–1.8, and 7–3–4.1 are not being rescinded with respect to PCAQCD.

Response: The cited PGCAQCD rules are being rescinded with respect to PCAQCD in a separate action that simultaneously approves PCAQCD replacement rules into the PCAQCD portion of the Arizona SIP.

III. EPA Action

No comments were submitted that change our assessment that the rescission of the rules complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the

Act, EPA is fully approving the rescission of these rules from the Arizona SIP with respect to both Gila County and PCAQCD or with respect to Gila County only, as designated in tables 1 through 6.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 5, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(18)(iv)(D), (c)(18)(iv)(E), (c)(18)(iv)(F), (c)(18)(iv)(G), (c)(46)(i)(B), and (c)(46)(i)(C) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(18) * * *

(iv) * * *

(D) Previously approved on November 15, 1978 in paragraph (c)(18)(iv) of this section and now deleted without replacement Rules 7–1–1.1, 7–1–1.3, 7–1–2.5, 7–1–2.6, 7–2–1.1, 7–2–1.2, 7–2–1.4, 7–2–1.5, 7–2–1.6, 7–2–1.7, and 7–3–1.6.

(E) Previously approved on December 17, 1979 in paragraph (c)(18)(iv) of this section and now deleted without replacement Rule 7–2–1.8.

(F) Previously approved on November 15, 1978 in paragraph (c)(18)(iv) of this section and now deleted without replacement with respect to Gila County only Rules 7–3–1.2, 7–3–1.3, 7–3–1.4, 7–3–1.5, 7–3–1.7, 7–3–1.8, 7–3–2.2, 7–3–2.3, 7–3–2.4, 7–3–3.1, 7–3–3.2, 7–3–3.3, 7–3–4.1, 7–3–5.1, and 7–3–5.2.

(G) Previously approved on December 17, 1979 in paragraph (c)(18)(iv) of this section and now deleted without replacement with respect to Gila County only Rule 7–3–2.5.

* * * * *

(46) * * *

(i) * * *

(B) Previously approved on April 12, 1982 in paragraph (c)(46)(i)(A) of this section and now deleted without replacement Rules 7–1–1.2 and 7–1–1.3(C).

(C) Previously approved on April 12, 1982 in paragraph (c)(46)(i)(A) of this section and now deleted without replacement with respect to Gila County only Rules 7–3–1.1, 7–3–1.4(C), 7–3–1.7(F), and 7–3–3.4.

* * * * *

[FR Doc. 01–18410 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7016–7]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Sheller-Globe Corporation Disposal Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 7 is publishing a direct final notice of deletion of the Sheller-Globe Corporation Disposal Superfund Site (Site), located near Keokuk, Iowa, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the state of Iowa, through the Iowa Department of Natural Resources because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective September 24, 2001 unless EPA receives adverse comments by August 24, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: James Colbert, Remedial Project Manager (RPM) at U.S. EPA Region 7, Superfund Division, 901 N. 5th St., Kansas City, Kansas, 66101.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 7 Superfund Records Center, 901 N. 5th Street, Kansas City, Kansas 66101 and the Keokuk Public Library, 201 N. 5th Street, Keokuk, Iowa 52632.

FOR FURTHER INFORMATION CONTACT: If additional information is needed, please contact James Colbert at (913) 551–7489 or e-mail at Colbert.Jim@epa.gov. The EPA Region 7 toll-free phone number is 1–800–223–0425.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

The EPA Region 7 is publishing this direct final notice of deletion of the Sheller-Globe Corporation Disposal Superfund Site from the NPL. The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action. Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective September 24, 2001 unless EPA receives adverse comments by August 24, 2001 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. The EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site.

(1) The EPA consulted with the state of Iowa on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) The state of Iowa concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of

the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Sheller-Globe Corporation Disposal Superfund Site is located approximately four miles north of Keokuk, Iowa, and consists of a primary disposal area and a much smaller secondary disposal area referred to as the North Hill disposal area that was identified during the Remedial Investigation (RI). The primary disposal area covers approximately 6.6 acres and is bordered by Airport Road, 260th Street, and two nameless intermittent streams. The North Hill disposal area is located on a hillside east of 260th Street approximately one-quarter of a mile north of the intersection with Airport Road.

Site History

From 1948 until 1972, waste materials were taken to the Sheller-Globe Corporation Disposal Site from the former Sheller-Globe plant in Keokuk. The plant manufactured rubber products and automobile parts. Some waste material taken to the Site for disposal consisted of solvents and paint sludges. These sludges, along with other nonhazardous wastes brought to the Site, were periodically burned and the ash spread over the hillsides. Disposal at the Site was discontinued in 1972 and the area was covered with soil. A private home was subsequently constructed within the boundaries of the primary disposal area and was used as a residence until 1991.The Site was proposed for inclusion on the EPA's National Priorities List (NPL) on May 5, 1989, and inclusion was finalized on August 30, 1990. The NPL identifies sites that warrant further evaluation to determine the type of response that may be required to protect human health and the environment.

Remedial Investigation (RI)

In October 1990, EPA and Sheller-Globe Corporation (Sheller-Globe) entered into an Administrative Order on Consent (AOC), Docket No. VII–91–F–0003. The AOC required Sheller-Globe to conduct a Remedial Investigation/Feasibility Study (RI/FS) to determine the nature and extent of contamination at the Site and evaluate alternatives to address contamination at the Site. The July 1994 RI Report provided a summary of all analytical results. The analytical results of the samples were used to characterize the risk that the Site posed to human health and the environment.

Characterization of Risk

The RI field activities included sampling of ash material, soil, surface water, sediment and groundwater. The July 1994 RI Report provided a summary of all analytical results. Using the data collected during the RI, the EPA prepared a Baseline Risk Assessment and an Ecological Assessment to characterize the risk that the Site posed to human health and the environment. Work conducted as part of the RI and the human health and ecological risk assessments indicated metals (barium, cadmium, lead, zinc, copper, chromium, and selenium) found in the ash material were at concentrations greater than the background soil concentrations. The metals in the ash material was considered to be the primary source of contamination at the Site.

Feasibility Study (FS)

The February 1995 FS Report evaluated the remedial alternatives and provided the basis for EPA's preferred alternative as presented in the July 1995 Proposed Plan. The RI Report, FS Report, and Proposed Plan were made available for public comment from August 1, 1995, to August 31, 1995.

Record of Decision Findings

The September 1995 Record of Decision (ROD) documents the remedial alternative selected by EPA to address the potential exposure to soils and ash material at the Site. The selected remedy addressed the threat posed by the contaminants within the primary disposal area of the Site and required the following actions:

- Record restrictive covenants/deed restrictions with the Lee County Recorder's office to prohibit the disturbance of the surface or subsurface of the property and limit land use to nonresidential. This also provides notice to potential future property owners of previous environmental response activities that have occurred at the Site;
- Demolish the house and shed located on site to prevent it from being used. Place the demolition debris in the basement of the house;
- Remove all drums exposed at the ground surface (the drums were determined to be empty or filled with nonhazardous material). Place the drums in the basement of the house;
- Construct a soil and vegetation cover over the exposed ash and over the basement of the house; and
- Inspect and maintain the soil covers.

Response Actions

A Consent Decree, Civil Action No. 8–98–CV–90150, was negotiated and executed by the United Technologies Automotive Systems, Inc. (UTAS), Miriam and David B. Grimes (the property owners), and the United States of America. The Consent Decree was lodged with the U.S. District Court for the Southern District of Iowa on September 25, 1998, and subsequently entered by the Court on March 3, 1999. The remedial action that was selected in the ROD was conducted by United Technologies Automotive Systems, Inc. (formerly Sheller-Globe Corporation) and their technical contractors (URS Greiner Woodward Clyde and WRS Infrastructure and Environment), in accordance with the April 1999 Remedial Design/Remedial Action (RD/RA) Work Plan and is documented in the May 2000 Remedial Action (RA) Report. The RA Report was approved by EPA on September 25, 2000.

Clean-Up Standards

The field work associated with the remedial action was conducted between November 1, 1999, and November 11, 1999. A backhoe was used to demolish the house and shed, the basement floor slab was broken up in place, and all the debris from the house and shed (as well as the empty drums and miscellaneous debris) was placed within the basement of the house. An initial layer of clay was placed over the debris prior to placement of a non-woven geotechnical filter fabric over the limits of the house. Three 8-inch thick lifts of clay were placed over the filter fabric and then a 12-inch layer of topsoil was spread over the clay. Each lift of clay and topsoil were compacted and sloped to specifications. The four areas of exposed ash that were identified during the RI/FS were also covered with at least one foot of topsoil. The house area, the four ash areas, the shed area, and drum divots were seeded and erosion control mats were spread and staked over the

completed soil areas. The EPA conducted a pre-certification inspection on November 8, 1999. In an April 21, 2000, letter to UTAS, the EPA indicated that the RA Report adequately demonstrated completion of the outstanding items noted during the pre-certification inspection and that the remedial action had been performed in accordance with the Consent Decree and RA Report on May 22, 2000. The RA Report was approved by EPA on September 25, 2000. Land use restrictions are a component of the remedy described in the ROD. In accordance with the Consent Decree, the property shall not be used for residential purposes and there shall be no disturbance of the surface or subsurface of the land. The Environmental Protection Declaration of Restrictive Covenants describes the land-use restrictions associated with the property and sets forth the procedures to enforce said restrictions. On September 12, 2000, this document was recorded at the Recorder's Office of Lee County, state of Iowa.

In September 1989, the Sheller-Globe Corporation Disposal Site (referred to as the Grimes Property Site) was listed on the state of Iowa's Registry of Confirmed Hazardous Waste or Hazardous Substance Disposal Sites. Inclusion on this registry provides that written approval by the Director of the Iowa Department of Natural Resources is necessary prior to substantially changing the manner in which the Site is used or selling, conveying, or transferring title of the Site.

Inspection and Maintenance

Routine field inspections by representatives of UTAS are planned to assure the integrity of the soil and vegetative covers. Inspections are scheduled for two times a year (spring and fall) for the first three years (2000, 2001, and 2002) and annually (fall) thereafter for an additional two years (2003 and 2004). The need to continue the inspection/maintenance program will be reassessed following the 2004 inspection. On behalf of UTAS, URS Greiner Woodward Clyde has conducted two post-remedial action inspections, in April 2000 and September 2000. These inspections verified that the ground surface has not been disturbed and the property remains vacant. In April 2000, the recommended maintenance actions included additional seeding and placement of erosion control material in limited areas. In September 2000, the Site inspection indicated that the soil and vegetative cover were in satisfactory condition and, therefore, repair and maintenance activities were not necessary. Future inspection and maintenance activities will be conducted and the five-year review process is in place to assure that the remedial action remains protective of human health and the environment.

Five-Year Review

Section 121 (c) of CERCLA, as amended, and § 300.430(f)(4)(ii) of the National Oil and Hazardous Substances Pollution Contingency Plan require that periodic reviews (at least once every five years) be conducted for sites where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use or unrestricted exposure following the completion of all remedial actions for the site. This type of five-year review is referred to as a statutory review. The five year timetable typically begins with mobilization of contractors to start remedial action construction. For the Sheller-Globe Corporation Disposal Site, the first five-year review is scheduled for November 2004.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. A Community Relations Plan was prepared for the Site in 1989. An information repository was established for the Site at the Keokuk Public Library. The RI Report, FS Report, and Proposed Plan were made available for public comment from August 1, 1995, to August 31, 1995. Fact sheets providing site updates were distributed to individuals on the mailing list as established by the Community Relations Plan. Documents which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the state of Iowa, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than inspection and maintenance and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL. Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 24, 2001 unless EPA receives adverse comments by August 24, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect; and EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 12, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site for ''Sheller-Globe Corp. Disposal, Keokuk, IA.''

[FR Doc. 01–18316 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010718180-1180-01;062901A]

RIN 0648-AP01

Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final harvest guideline.

SUMMARY: NMFS announces the annual harvest guideline for Pacific mackerel in the exclusive economic zone (EEZ) off

the Pacific coast. The Coastal Pelagic Species Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest guideline for Pacific mackerel based on a formula in the FMP. The intended effect of this action is to establish allowable harvest levels for Pacific mackerel off the Pacific coast and to minimize the impact on other coastal pelagic fisheries.

DATES: Effective July 20, 2001.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, Southwest Region, NMFS, (562) 980-4036.

SUPPLEMENTARY INFORMATION: The FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides managed species into the categories of ''actively managed'' and ''monitored.'' Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (i.e., jack mackerel, northern anchovy, and market squid).

Each year at a Pacific Fishery Management Council (Council) public meeting, the biomass for each actively managed species is presented by the Council's Coastal Pelagic Species Management Team (Team) to the Council's Coastal Pelagic Species Advisory Subpanel (Subpanel). At that time, the biomass, the harvest guideline, and the status of the coastal pelagic fisheries are reviewed. Following review by the Council's Scientific and Statistical Committee (SSC) and after hearing all public comments, the Council makes a recommendation to NMFS. NMFS approves and publishes the annual harvest guideline in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific mackerel season began on July 1, 2001, and ends on June 30, 2002, or earlier if and when the harvest guideline is reached. All landings of Pacific mackerel from July 1, 2001, to the effective date of this rule will be counted toward the total harvest guideline of 13,740 (metric tons) mt.

On May 11, 2001, consistent with the procedures of the FMP, the biomass report and harvest guideline for Pacific mackerel were reviewed at a public meeting of the Team and Subpanel at the NMFS, Southwest Region in Long Beach, CA. A modified virtual population analysis stock assessment model is used to estimate the biomass of Pacific mackerel. The model employs both fishery dependent and fishery independent indices to estimate abundance. The biomass was calculated through the end of 2000, then estimated for the fishing season that began July 1, 2001, based on (1) The number of Pacific mackerel estimated to comprise each year class at the beginning of 2001, (2) modeled estimates of fishing mortality during 2000, (3) assumptions for natural and fishing mortality through the first half of 2001, and (4) estimates of age-specific growth. Based on this approach, the biomass for July 1, 2001, is 84,090 metric tons (mt), and the harvest guideline derived from the formula in the FMP as described below is 13,837 mt.

Fishermen and members of the fishing industry were concerned about the low harvest guideline's potential negative effect on the harvest of Pacific sardine. In response, the Subpanel recommended a directed fishery for Pacific mackerel of 6,000 mt, followed by an incidental harvest of up to 45 percent of Pacific mackerel in landings of other coastal pelagic species. A 1-mt landing of Pacific mackerel per trip would also be allowed if no other species were landed during a trip. If a significant amount of the harvest guideline remains unused toward the end of the fishing season, the directed fishery would be reopened.

At its meeting on June 15, 2001, in Burlingame, CA, the Council heard reports on the mackerel fishery from the Team and Subpanel, its SSC, and from the public. The Council recommended that NMFS adopt the Subpanel's recommendation of a small directed fishery followed by an incidental landings restriction and a 1-mt landing of mackerel without landing any other species. Therefore, most of the harvest guideline would be used as incidental landings in fisheries for other coastal pelagic species.

The formula in the FMP uses the following factors to determine the harvest guideline:

1. *The biomass of Pacific mackerel.* For 2001, this estimate is 84,090 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established the cutoff level at 18,200 mt. This is subtracted from the biomass, leaving 65,890 mt.

3. *The portion of the Pacific mackerel biomass that is in U.S. waters.* For 2001, this estimate is 70 percent, based on the average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters. Therefore, the harvestable biomass in U.S. waters is 70 percent of 65,890 mt, which is 46,123 mt.

4. *The harvest fraction.* This is the percentage of the biomass above 18,200 mt that may be harvested. The FMP established the harvest fraction at 30 percent. This is multiplied by the harvestable biomass (46,123 mt) in U.S. waters and is 13,837 mt.

In view of the above, the following determinations have been made:

1. Based on the estimated biomass of 84,090 mt and the formula in the FMP, a harvest guideline of 13,837 mt was calculated and will be in effect for the fishery that began on July 1, 2001. This harvest guideline is available for harvest for the fishing season that began at 12:01 a.m. on July 1, 2001, and continues through June 30, 2002.

2. There will be a directed fishery of at least 6,000 mt, and 7,837 mt of the harvest guideline will be utilized for incidental landings following the closure of the directed fishery.

NMFS will announce in the **Federal Register** closure of the directed fishery, after which no more than 45 percent by weight of a landing of Pacific sardine, northern anchovy, jack mackerel, or market squid may consist of Pacific mackerel, except that up to 1-mt of Pacific mackerel may be landed without landing any other species. NMFS will monitor the fishery and if a sufficient amount of harvestable Pacific mackerel stock remains before June 30, 2002, NMFS will reopen the directed fishery.

Classification

This action is authorized by 50 CFR 660.508 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. 553(b)(3)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because establishing the harvest guideline is a ministerial act, determined by applying a formula in the FMP. Accordingly, providing prior notice and an opportunity for public comment would serve no useful purpose.

Because this rule merely announces the result of harvest guideline calculations and does not require any participants in the fishery to take action or to come into compliance, the AA finds for good cause under 5 U.S.C. 553(d)(3) that delaying the effective date of this rule for 30 days is unnecessary.

Because prior notice and opportunity for public comment are not required for this action by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

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

Dated: July 19, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–18529 Filed 7–20–01; 3:35 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010502110–1110–01; I.D. 071601E]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closure of the Commercial Fishery from U.S.-Canada Border to Leadbetter Pt., WA

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

ACTION: Closure; request for comments.

SUMMARY: NMFS announces that the commercial fishery for all salmon in the area from the U.S.-Canada Border to Leadbetter Pt., WA, was closed on July 9, 2001, at 2359 hours local time (l.t.). The Northwest Regional Administrator of NMFS (Regional Administrator) determined that the guideline of 7,000 chinook salmon had been reached. This action was necessary to conform to the 2001 annual management measures for ocean salmon fisheries.

DATES: Closure effective 2359 hours l.t., July 9, 2001. Comments will be accepted through August 9, 2001.

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

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140, Northwest Region, NMFS, NOAA.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR 660.409 (a)(1) state that, when a quota for any salmon species in any portion of the fishery management area is projected by the Regional Administrator to be reached on or by a certain date, NMFS will, by notification issued under 50 CFR 660.411 (a)(2), close the fishery for all salmon species in the portion of the fishery management area to which the quota applies, as of the date the quota is projected to be reached.

In the 2001 annual management measures for ocean salmon fisheries (66 FR 23185, May 8, 2001), NMFS announced that the commercial fishery for all salmon in the area from the U.S.-Canada Border to Leadbetter Pt., WA, would open on July 1 through the earlier of July 27, a 7,000-chinook preseason guideline, or a 12,000–marked coho guideline.

The Regional Administrator consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fish and Wildlife, and the Oregon Department of Fish and Wildlife. The best available information as of July 9, 2001, related to the catch and effort to date and projected catch for fish that were yet to be landed, indicated that the 7,000–chinook quota would likely be reached by 2359 hours l.t., July 9, 2001, and that a closure of the area was warranted. The State of Washington will manage the fishery in state waters adjacent to this area of the exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishermen of these actions was given prior to 2359 hours l.t. on July 9, 2001, by telephone hotline number 206–526–6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

NMFS has determined that the need for immediate action to close the fishery upon achievement of the quota is good cause for this notification to be issued without affording a prior opportunity for public comment. Such notification would be unnecessary, impracticable, and contrary to the public interest. Moreover, because of the immediate need to close the fishery upon achievement of the quota, the Assistant Administrator for Fisheries, NOAA, finds for good cause, under 5 U.S.C. 553 (d)(3), that delaying the effectiveness of this rule for 30 days is impracticable and contrary to public interest. This action does not apply to other fisheries that may be operating in other areas.

Classification

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

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

Dated: July 19, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–18572 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 071901B]

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish by Vessels Using Trawl Gear in the West Yakutat District of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of sablefish by vessels using trawl gear in the West Yakutat District of the Gulf of Alaska (GOA). NMFS is requiring that catch of sablefish by vessels using trawl gear in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of the sablefish 2001 total allowable catch (TAC) assigned to trawl gear in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 20, 2001, until 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

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

The 2001 TAC allocation of sablefish assigned to trawl gear for the West Yakutat District was established as 271 metric tons (mt) by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR

7276, January 22, 2001 and 66 FR 37167, July 17, 2001).

In accordance with § 679.20 (d)(2), the Administrator, Alaska Region, NMFS, has determined that the allocation of the sablefish TAC assigned to trawl gear in the West Yakutat District of the GOA has been reached. Therefore, NMFS is requiring that further catches of sablefish by vessels using trawl gear in the West Yakutat District of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

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

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

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

Dated: July 20, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–18528 Filed 7–20–01; 3:35 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 072001A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2001 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 21, 2001, through 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

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

The 2001 TAC of Pacific ocean perch for the Western Aleutian District was established as 4,385 metric tons (mt) by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.20 (d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2001 TAC for Pacific ocean perch in the Western Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,585 mt, and is setting aside the remaining 800 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20 (d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the BSAI.

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

Classification

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

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

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

Dated: July 20, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–18526 Filed 7–20–01; 3:35 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010122013–1013–01; I.D. 071901C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the West Yakutat District of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pelagic shelf rockfish in the West Yakutat District of the Gulf of Alaska(GOA). This action is necessary to prevent exceeding the 2001 total allowable catch (TAC) of pelagic shelf rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 20, 2001, through 2400 hrs, A.l.t., December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

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

The 2001 TAC of pelagic shelf rockfish for the West Yakutat District was established as 580 metric tons (mt) by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001 and 66 FR 37167, July 17, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2001 TAC for pelagic shelf rockfish in the West Yakutat District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 570 mt, and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pelagic shelf rockfish in the West Yakutat District of the GOA.

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

Classification

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

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

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

Dated: July 20, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–18527 Filed 7–20–01; 3:35 pm]

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Proposed Rules

Federal Register
Vol. 66, No. 143
Wednesday, July 25, 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.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, and 113

[Notice 2001—10]

Brokerage Loans and Lines of Credit

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 2001, amended the Federal Election Campaign Act (''FECA'' or ''the Act'') to allow a candidate to obtain a loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate. The Federal Election Commission (''Commission'') is issuing this notice of proposed rulemaking (''NPRM'') to solicit comments on its proposal to implement this amendment to the FECA. Please note that the draft rules that follow do not represent a final decision by the Commission on the issues presented by this rulemaking. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before August 24, 2001. If the Commission receives sufficient requests to testify, it will hold a hearing on these proposed rules on September 19, 2001, at 10 a.m. Persons wishing to testify at the hearing should so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Ms. Rosemary C. Smith, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up. Electronic mail comments should be sent to loansnprm@fec.gov. Commenters sending comments by electronic mail must include their full name, electronic mail address and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Assistant General Counsel, or Ms. Mai T. Dinh, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: As part of its 1999 legislative recommendations to Congress, the Commission sought guidance ''* * * on whether candidate committees may accept contributions which are derived from advances from a financial institution, such as advances on a candidate's brokerage accounts, credit card, or home equity line of credit * * *'' *See* 1999 Fed. Election Comm. Annual Rep. at 45 (2000). The Commission recognized that, since the FECA was first enacted, financial institutions have created new financing products to allow consumers more access to credit. The Commission recommended that the FECA be amended to allow candidates to access these new forms of credit to finance their campaigns for federal office, provided that the extension of credit be done in accordance with applicable law, under commercially reasonable terms and by persons who make these loans in the normal course of their business. *Id.*

In the Department of Transportation and Related Agencies Appropriations Act, 2001, Congress amended the FECA (2 U.S.C. 431(8)(B)) to exclude from the definition of contribution ''a loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate * * *'' The amendment also included the three conditions contained in the Commission's legislative recommendation described above. The Department of Transportation and Related Agencies Appropriations Act, 2001, became Public Law 106–346 on October 23, 2000.[1]

The following represents the Commission's proposal to implement the amendment to the FECA allowing candidates to receive advances from their brokerage accounts, credit cards, home equity lines of credit, or other lines of credit. In the narrative below, the Commission raises several issues associated with this NPRM. It welcomes comments on those issues as well as any additional comments that may be pertinent to this rulemaking but that have not been addressed in this NPRM.

[1] Public Law 106–346 included other statutory changes regarding reporting of independent expenditures, which are being addressed in a separate rulemaking.

Proposed Rules

11 CFR 100.7 Contribution

A. General Provisions on Brokerage Loans and Lines of Credit

In order to implement this amendment to the FECA, the Commission proposes to amend 11 CFR 100.7(b) by amending the introductory language of paragraph (b)(11) and adding a new 11 CFR 100.7(b)(22) to include brokerage loans, credit card advances, and other lines of credit made to candidates as among the items that are not considered contributions. The proposed rules would track the language of the amendment to the FECA including the conditions set forth, along with some additional clarifications and guidance regarding reporting requirements.

The Commission recognizes that commercial banks offer various lines of credit to their customers. Because the amendment to the FECA specifically establishes different criteria for lines of credit for candidates, the Commission proposes to amend 11 CFR 100.7(b)(11) to specifically exempt brokerage loans, credit card advances, and other lines of credit extended to candidates from the requirements of bank loans contained in section 100.7(b)(11). The proposed rules would amend paragraph (b)(11) by adding a sentence at the end of the introductory text that states that brokerage loans, credit card advances, and other lines of credit made to candidates under § 100.7(b)(22) would not be subject to § 100.7(b)(11). This exception would also include overdrafts made on personal checking or saving accounts of candidates because overdraft protection is a form of a line of credit. Thus, overdrafts made on a candidate's personal accounts would be subject to the requirements of proposed § 100.7(b)(22). It is important to note that the § 100.7(b)(11) would still apply to all loans and lines of credit made to a political committee and to

conventional bank loans made to a candidate.

B. Endorsers, Guarantors, and Co-signers

Proposed paragraph (b)(22) would contain the three statutory requirements for obtaining a loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit, which are: that the loan would be made in accordance with applicable law; that the loan would be made under commercially reasonable terms; and that the persons making the loans make such loans in the normal course of their business. This new regulation would also address situations where there are endorsers, guarantors, or co-signers of these loans. New paragraph (b)(22) , like current paragraph (b)(11), would provide that an endorser, guarantor, or co-signer would be considered a contributor for the amount that the endorser, guarantor or co-signer is liable. This information would be disclosed on new schedule C–2 or C–P–2. *See infra.* The exception would be when the endorser, guarantor, or co-signer is the spouse of the candidate and the candidate's share of collateral used to obtain a secured loan equals or exceeds the amount of the loan. *See* 11 CFR 100.7(a)(1)(i)(D). Under proposed § 100.7(b)(22)(ii)(B), when a spouse is an endorser, guarantor, or co-signer of an unsecured loan, the spouse would not be considered a contributor if the candidate uses only one-half of the available credit in connection with the campaign. The Commission seeks comments on whether the regulations should allow the candidate to use the entire amount of the available credit in connection with a campaign in instances where the loan is in the ordinary course of business and the candidate is liable for the entire amount of the loan even though the spouse has endorsed, guaranteed, or co-signed for the loan.

Section 432(e)(2) of the FECA and 11 CFR 101.2 state that a candidate is an agent of the candidate's authorized committee when he or she obtains a loan in connection with a campaign. Because the amendment to FECA did not distinguish loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit, from other types of loans, a candidate who obtains these loans in connection with the candidate's campaign is acting as an agent for his or her authorized committee under 2 U.S.C. 432(e) and 11 CFR 101.2.

C. Loans for Personal Living Expenses

Proposed section 100.7(b)(22) also contains a provision whereby a candidate would be able to obtain a loan derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit for personal living expenses without the loan being reportable. Further, the loan would not violate 2 U.S.C. 439a or 11 CFR 113.2(d) prohibiting personal use of campaign funds. The loan, however, would have to be repaid from the candidate's personal funds.

It is important to note that this exception in paragraph (b)(22)(iii) is limited to loans used solely for personal living expenses. Thus, if all or part of the loan proceeds is used in connection with a campaign, the loan would need to be reported under 11 C.F.R. part 104. As an alternative to proposed paragraph (b)(22)(iii), the Commission seeks comments on whether to require the candidate's authorized committee to report loans used exclusively for the candidate's personal living expenses.

The Commission is seeking comment on how to make proposed § 100.7(b)(22)(iii)(A) more precise, since a candidate might borrow money for any number of personal, commercial or investment purposes that would fall outside the category of ''personal living expenses,'' yet such a loan would not be appropriate to characterize as ''in connection with a campaign.'' For example, if a candidate establishes a margin account at a brokerage firm to acquire additional securities, this would not appear to be a ''personal living expense.''

In addition to seeking comment on whether the term ''personal living expenses'' is sufficiently descriptive and inclusive, the Commission is also seeking comment on the scope of the phrase ''used for the candidate's campaign,'' which is included in proposed § 100.7(b)(22)(ii)(A) and is derived from 2 U.S.C. 432(e)(2). Should this phrase encompass only loans the proceeds of which are lent or contributed to the candidate's campaign or are used to defray campaign expenses? Even with this narrowing construction, because money is fungible, what additional guidance should the Commission provide as to the reporting obligations of candidates who receive money from multiple sources (e.g., a loan and the liquidation of stock) and who contribute or lend money to their candidate committee?

The exception in new paragraph (b)(22)(iii) would not apply, however, if a third party repays, guarantees, endorses, or co-signs a loan for personal living expenses, in part or in whole. The third party would be deemed to make a contribution in the amount of the endorsement, guarantee, or liability and this amount would be subject to the limitations and prohibitions of the FECA. *See* 11 CFR 113.1(g)(6). Thus, if a third party repays, guarantees, endorses, or co-signs the loan, the authorized committee must report the loan and the repayment under 11 CFR 104.3, 104.8 and 104.9.

The Commission is considering making similar clarifications regarding the reporting of bank loans that are used solely for the candidate's personal living expenses. Please note this is not reflected in the proposed rules that follow. Under this clarification, bank loans would not be required to be reported if: (1) No part of the loan proceeds is used in connection with a campaign; (2) the loan is repaid wholly from the candidate's personal funds; (3) the loan does not pass through the authorized committee's account and the authorized committee does not endorse, guarantee, co-sign, or pay the loan; and (4) there is no endorsement, guarantee, co-signature, or payment by a third party. The Commission seeks comments on whether it is advisable to adopt such clarifications regarding bank loans used for a candidate's personal living expenses.

D. Repayments of Loans by Authorized Committees to Either the Candidate or the Lending Institution.

Under proposed § 100.7(b)(22)(iv), the candidate's authorized committee would have the option of repaying the loan directly to the lending institution or to the candidate. If the repayment is made to the candidate, however, the candidate must repay the lending institution within 30 days of receiving the committee's repayment. This is to ensure that the funds will not be available for the candidate's personal use. *See* 2 U.S.C. 439a and 11 CFR 113.2(d).

E. Other Amendments to 11 CFR 100.7(b)

The proposed rules would also delete an obsolete reference in the introductory text of 11 CFR 100.7(b)(11) to the Federal Savings and Loan Insurance Corporation (FSLC). The FSLC has been dissolved and its deposit insurance responsibilities have been transferred to the Federal Deposit Insurance Corporation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101–73 (August 9, 1989).

11 CFR 100.8 Expenditure

Currently, 11 CFR 100.8(b)(12) exempts bank loans from the definition of ''expenditure'' and contains parallel language to that found in the exceptions to the definition of ''contribution'' in provision of § 100.7(b)(11). The Commission proposes to exempt loans derived from advances on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate from the definition of ''expenditure'' by amending § 100.8(b)(12) and by adding a new § 100.8(b)(24). The proposed amendments to § 100.8(b)(12) are similar to the proposed amendments to § 100.7(b)(11). Proposed § 100.8(b)(24) adopts, by reference, the language of proposed § 100.7(b)(22).

11 CFR 104.3 Contents of Reports

As noted above, the Commission would require that loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit in connection with the candidate's campaign would have to be reported by the candidate's principal campaign committee. The requirements would be set out in several sections in 11 CFR part 104. In § 104.3, the candidate's principal campaign committee would be required to report the loan of money as a receipt under proposed paragraph (a)(3)(vii)(D). It would also be required to report any repayment of the loan as a disbursement under proposed paragraph (b)(2)(iii)(D).

Under the proposed rules, § 104.3(b)(4)(iii) would be amended to specifically include persons who receive repayments from a reporting committee of loans derived from an advance on a candidate's brokerage account, credit card, or lines of credit, as among those who must be identified and itemized in the report. ''Persons'' in this proposed section would include candidates and lending institutions. The proposed amendment to § 104.3(b)(4)(iv) would make the same change with regard to persons who receive a repayment of a loan from a candidate.

Current 11 CFR 104.3(d) describes the requirements for reporting debts and obligations. The proposed rules would amend this paragraph to include loans derived from advances on a candidate's brokerage account, credit card, home equity line of credit and other lines of credit. First, the introductory language of paragraph (d) would be amended to make clear that these advances must be reported if they are used for the candidate's campaign even if the advances were received before the individual became a candidate for federal office. Paragraph (d)(1) would also be changed to recognize that lines of credit established by a candidate at any lending institution would be subject to the reporting requirements of new 11 CFR 104.3(d)(4) and not the reporting requirements of current § 104.3(d)(1). The amendment would clearly state that only lines of credit obtained by political committees would be subject to the bank loan regulations.

The proposed rules would add a new § 104.3(d)(4) to describe the information that must be disclosed in the report. The proposed paragraph would require committees to disclose loans derived from an advance from a candidate's brokerage account, credit card, or line of credit on new schedules C–2 and C–P–2. The Commission will design these new schedules to reflect the final rules and will have them available by the effective date of the final rules.

Under proposed § 104.3(d)(4), committees would be required to disclose the following information: Date, amount and interest rate of the loan; name and address of the lending institution; type and value of collateral or security; and each draw or advance on the credit card or line of credit. The Commission seeks comment on whether additional information is necessary.

11 CFR 104.8 Uniform Reporting of Receipts

Current 11 CFR 104.8 requires that certain receipts, including loans, be disclosed on Schedule A. The proposed rules would add new paragraph (g) to § 104.8 to describe how receipt of a loan derived from an advance from a candidate's brokerage account, credit card, or line of credit would be reported on Schedule A. When the candidate's committee receives the funds directly from the lending institution, it would be reported as an itemized entry on Schedule A. If the candidate receives the funds from the lending institution and then makes a loan or a gift to the committee, then the transfer of funds from the lending institution to the candidate would be reported as a memo entry on Schedule A and the loan or gift of money from the candidate to the committee would be reported as an itemized entry on Schedule A. A cross reference to § 100.7(b)(22)(iii) would also be included in new § 104.8(g) regarding the reporting of loans obtained solely for the candidate's personal living expenses.

The Commission is also considering expanding the scope of proposed § 104.8(g) to include similar changes to the way in which bank loans obtained by candidates directly must be reported on Schedule A as memo entries if they are used in connection with a campaign. This would provide further guidance to authorized committees on the proper reporting mechanism for bank loans obtained by candidates where the funds are turned over to the committee. The Commission seeks comments on whether it is advisable to expand the scope of proposed § 104.8(g) to address bank loans received initially by the candidate.

11 CFR 104.9 Uniform Reporting of Disbursements

Current 11 CFR 104.9 requires that certain disbursements, including loan repayments, be disclosed on Schedule B. New paragraph (f) would be added to § 104.9 to explain how repayments of a loan derived from an advance from a candidate's brokerage account, credit card, or line of credit would be reported on Schedule B. If the candidate's committee directly repays the lending institution, then the repayment would be an itemized entry on Schedule B. If the committee repays the candidate who, in turn, repays the lending institution, then the repayment to the candidate would be an itemized entry and the repayment to the lending institution would be a memo entry. The Commission also seeks comments on whether it is advisable to expand the scope of proposed § 104.9(f) so that the repayment of bank loans would be reported in the same manner on Schedule B.

Alternative Approach on the Authorized Committee's Receipt of Loan Proceeds

Proposed 11 CFR 100.7(b)(22)(vi), 104.8(g), and 104.9(f) would permit the proceeds of the loan to be paid directly to the candidate's authorized committee and would permit the authorized committee to repay the loan directly to the lending institution. As an alternative to the approach set out in the proposed rules, the Commission is considering whether to require that the payment and repayment of the loan pass through the candidate's personal account, in order to distinguish bank loans made directly to an authorized committee from loans derived from a candidate's brokerage account, credit card, home equity line of credit, or other line of credit. In other words, the lending institution must disburse the loan to the candidate who would then loan or contribute the money to the authorized committee. If the candidate loans the money to the authorized committee, the committee would be required to repay the loan to the candidate, not to the lending

institution, and the candidate would then repay the lending institution.

Alternative Reporting Approach

As an alternative to the foregoing reporting approach in the proposed amendments to 11 CFR 104.3, 104.8, and 104.9, the Commission seeks comment on a less extensive reporting system. A committee only would be required to report certain limited information about the sources of bank loans and loans derived from advances on brokerage accounts, credit cards, home equity lines of credit, or other lines of credit when the candidate has loaned or contributed outright such funds to the committee. This information would include the name of the institution and any applicable interest rate and the due date. Further, in the situation where the candidate has lent the funds to the committee, the committee only would be required to report repayments to the candidate, not the repayments by the candidate to the lending institution. This reporting approach would be applied to loans from banks as well as the loans derived from other sources covered by the recent statutory amendment. It would rely on the complaint and audit processes to monitor situations where the committee makes loan repayments but the candidate does not use such repayments to repay the lending institution or relies on third parties to make the repayments to the lending institution. It would involve repeal of 11 CFR 104.3(d)(1)(iii)–(v), (d)(2)–(3), and the elimination of lines A through F of schedules C–1 and C–P–1.

11 CFR 104.18 Electronic Filing of Reports

Paragraph (h) of section 104.18 sets forth the requirements for the filing of special schedules and forms that must accompany the electronic filing of reports. These special schedules and forms generally require original signatures on them. The Commission has not yet designed schedules C–2 and C–P–2 described in proposed 11 CFR 104.3(d)(4). However, the Commission intends to require signatures on these new schedules and therefore, § 104.18(h) would be amended to include schedules C–2 and C–P–2. The proposed change is based on the proposed amended language for § 104.18(h) in the notice of proposed rulemaking entitled ''Independent Expenditure Reporting.'' *See* 66 FR (2001). The Commission seeks comments on the advantages and disadvantages of requiring the lenders' signatures on these new schedules and whether the Commission should require these signatures.

11 CFR 113.1 Definitions

Under the proposed rules, the third party payments provisions of the definition of ''personal use'' in 11 CFR 113.1(g)(6) would be amended to include a repayment, endorsement, guarantee, or co-signature of a loan derived from a candidate's brokerage account, credit card, home equity line of credit, or other line of credit and used for the candidate's personal living expenses within the meaning of ''payment''. A cross reference to § 100.7(b)(22) would be included in this paragraph.

Additional Issues

11 CFR 104.14 Formal Requirements Regarding Reports and Statements

Unlike the regulations for bank loans, the proposed rules would not require principal campaign committees to submit to the Commission loan agreements or similar documents that are connected with a loan derived from an advance from a candidate's brokerage account, credit card, or line of credit. The committees, however, would still be required, under current 11 CFR 104.14, to maintain records connected with these types of loans for three years. For example, committees would be required to maintain any agreements or documents that are connected with these loans, including but not limited to: the Federal Reserve Board's Form T–4 that is required to obtain a brokerage loan, any loan agreements, and any receipts or copies of a credit card company's check that are evidence of an advance from a candidate's credit card. The Commission seeks comments on whether it should require the candidate's principal campaign committee to submit loan agreements and similar documents on loans derived from an advance from a candidate's brokerage account, credit card, or line of credit when the committee files schedule C–2 or C–P–2.

Margin Requirements

A loan derived from a brokerage account is obtained by opening a non-purpose credit account. Margin accounts and non-purpose credit accounts are subject to the Federal Reserve Board's Regulation T, 12 CFR part 220. Under 12 CFR 220.6(e), non-purpose credit accounts are not subject to Regulation T's margin requirements but are subject to the rules of the self regulating organizations (SRO) that regulate the exchanges. Recognizing that non-purpose credit accounts contain similar inherent risks to margin accounts, the two largest SRO, the New York Stock Exchange (NYSE) and the National Association of Securities Dealers (NASD), established minimum maintenance margins for non-purpose credit accounts that are applicable to the members in their exchanges.[2] Generally, the minimum maintenance margin is 25 percent.[3] That is, a customer must maintain securities valued at 125 percent of the outstanding non-purpose credit. Individual brokerage firms may require higher maintenance margins.

Brokerage firms are supposed to issue a margin call if the equity in a customer's account falls below the maintenance margin. Both the NYSE and the NASD, however, allow firms not to issue a margin call if the firm is willing to take a charge against its net capital, pursuant to SEC Rule 15c3–1, for the amount the customer would have been required to deposit to meet the margin call. *See* NYSE Rule 431(e)(7) and NASD Rule 2520(e)(7).

Although this practice may be considered to be in the ordinary course of business, nevertheless, the candidate would receive something of value—not having to deposit additional cash or securities into an account—for free. Essentially, the brokerage firm is providing additional collateral to the candidate without being compensated. Even though the brokerage firm may provide the same service to other customers who are not seeking federal office, the Commission has determined that services offered free of charge by corporations in the ordinary course of business for promotional or good will purposes (if these services might otherwise have required consideration) are prohibited by 2 U.S.C. 441b. *See* Advisory Opinions 1996–2, 1988–25, 1988–12. Moreover, by not making the margin call, the candidate has increased his or her risk exposure and may be less likely to be able to repay the loan. The Commission seeks comments on whether a brokerage firm that takes a charge against net capital may, under certain circumstances, be providing

[2] Margin is the amount of securities held or maintained in an account above the balance of outstanding credit. The maintenance margin is the minimum margin that must be held or maintained in an account. As long as the value of the equity in the customer's account exceeds the maintenance margin, the customer is not required to make payments on the loan. A margin call occurs when the value of a customer's account falls below the maintenance margin and the brokerage firm issues a demand to a customer to deposit more cash or securities into the account so that the value of the account increases to at least the maintenance margin.

[3] However, the SRO may change the maintenance margin with the approval of the Security Exchange Commission (SEC).

something of value to candidates which is prohibited by 2 U.S.C. 441b.

Repayment and Termination

Loans derived from a candidate's brokerage account, credit card account, home equity line of credit, or other lines of credit, present a few repayment issues. Under 2 U.S.C. 432(e)(2), a candidate is considered an agent of the authorized committee when obtaining a loan for use in connection with the candidate's campaign for federal office. As such, the authorized committee has a continuing obligation to report the loan until it is repaid. Because of the nature of brokerage loans, the Commission is unsure as when to consider a loan repaid. In practice, customers are not required to make payments on the loan unless the value of the non-purpose credit account falls below the maintenance margin. If the securities in the non-purpose credit account continually increase in value, then the customer does not have to make any payments. Thus, a candidate could maintain a loan balance well after the candidate is no longer seeking federal office.

Normally, a committee reports the disposition of its loans before it can terminate. *See infra.* For purposes of determining the disposition of these loans, the Commission seeks comments on when a brokerage loan should be considered paid in full. Should the candidate be required to liquidate an amount of securities, or make a deposit, or a combination of both, equal to the amount of the outstanding brokerage loan plus any interest that may have accrued?

The other issue that needs to be addressed in the context of repayment of loans derived from a candidate's brokerage account, credit card account, home equity line of credit, or other lines of credit, is termination of political committees. Under 11 CFR 104.11, a loan remains an outstanding debt that the candidate's authorized committee must continue to report until it is extinguished. Additionally, these loans, similar to bank loans, would not be subject to debt settlement under 11 CFR 116.4. Because a political committee cannot terminate unless all outstanding debts are satisfied, the candidate's authorized committee cannot terminate, even if the candidate is no longer seeking federal office, until the loan is paid in full. *See* 11 CFR 102.3. The exception is when the Commission administratively terminates a political committee under 11 CFR 102.4. Under these circumstances, a committee would be terminated even if it has outstanding debts provided that the criteria for administrative termination are met.

One option under consideration is requiring committees to report until the original amount of the loan plus any interest or penalty are repaid. Another option is to allow the committee to terminate if it has extinguished its debt to the candidate even if the candidate has not repaid the entire loan to the lending institution. Alternatively, committees would be allowed to terminate if it can demonstrate unique circumstances that will ensure that the loan would be repaid, under commercially reasonable terms, from the candidate's personal funds. An example of unique circumstances is a brokerage loan that is subject to fixed due date and a repayment schedule.

The Commission seeks comments on which of these three approaches best advance the purpose of FECA. The Commission also welcomes suggestions on alternative methods of reporting outstanding debts and termination of a committee where either the candidate or the candidate's committee has an outstanding loan that is derived from the candidate's brokerage account, credit card, home equity line of credit, or other lines of credit.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The attached proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rules would implement the changes to the FECA expressly permitting candidates to obtain loans from a wider range of financial institutions. This would increase the flexibility that candidates would have to seek financing for their campaigns. The requirement to report loans derived from an advance from a candidate's brokerage account, credit card, or line of credit would only impact the candidates and their campaign committees. It would not have a significant economic impact on these committees because they are already required to report all loans that are made in connection with a federal campaign. In fact, the reporting requirements in the proposed rules are minimal. The Commission does not anticipate that these changes will cause committees to devote much additional time or resources to comply with the proposed reporting requirements. Therefore, the attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 113

Campaign funds.

For the reasons set out in the preamble, it is proposed to amend Subchapter A, Chapter I of title 11 of the Code of Federal Regulations as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority for part 100 would continue to read as follows:

Authority: 2 U.S.C. 431, 434(a)(11), 438(a)(8).

2. 11 CFR 100.7 would be amended by revising the introductory text of paragraph (b)(11) and adding new paragraph (b)(22) to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

* * * * *

(b) * * *

(11) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: Bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a) and (d). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement, except that, in the event of a signature by the candidate's spouse, the provisions of paragraph (a)(1)(i)(D) of this section shall apply. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such

agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a contribution by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For purposes of this paragraph, an overdraft made on a checking or savings account shall be considered a contribution by the bank or institution unless: The overdraft is made on an account which is subject to automatic overdraft protection; the overdraft is subject to a definite interest rate which is usual and customary; and there is a definite repayment schedule. However, paragraph (b)(11) of this section shall not apply to any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in paragraph (b)(22) of this section.

* * * * *

(22) (i) Any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, including an overdraft made on a personal checking or savings account of a candidate, provided that:

(A) Such loan is made in accordance with applicable law and under commercially reasonable terms; and

(B) The person making such loan makes loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

(ii) Each endorser, guarantor, or co-signer shall be deemed to have contributed that portion of the total amount of the loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, for which he or she agreed to be liable in a written agreement, including a loan used for the candidate's personal living expenses. Any reduction in the unpaid balance of the loan, advance, or line of credit shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan, advance, or line of credit for which each endorser, guarantor, or co-signer is liable, the loan shall be considered a contribution by each endorser or guarantor in the same proportion to the unpaid balance that each endorser, guarantor, co-signer bears to the total number of endorsers or guarantors. However, if the spouse of the candidate is the endorser, guarantor, or co-signer, the spouse shall not be deemed to make a contribution if:

(A) For a secured loan, the value of the candidate's share of the property used as collateral equals or exceeds the amount of the loan that is used for the candidate's campaign; or

(B) For an unsecured loan, the amount of the loan used in connection with the candidate's campaign does not exceed one-half of the available credit extended by the unsecured loan.

(iii) (A) A loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, that is used by the candidate solely for personal living expenses, does not need to be reported under 11 CFR part 104 provided that the loan, advance, or line of credit is wholly repaid from the personal funds of the candidate.

(B) Any repayment, in part or in whole, of the loan, advance, or line of credit described in paragraph (b)(22)(iii)(A) of this section by the candidate's authorized committee constitutes the personal use of campaign funds and is prohibited by 11 CFR 113.2.

(C) Any repayment, in part or in whole, by a third party of the loan, advance, or line of credit described in paragraph (b)(22)(iii)(A) of this section is a contribution and shall be reported under 11 CFR part 104.

(D) Each endorser, guarantor, or co-signer of a loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate that is used by the candidate solely for personal living expenses, shall be subject to the provisions of paragraph (b)(22)(ii) of this section, and the loan, advance, or line of credit and all repayments shall be reported under 11 CFR part 104.

(iv) The candidate's authorized committee may repay a loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, directly to the candidate or the original lender. The amount of the repayment shall not exceed the amount of the principal used in connection with the campaign and interest that has accrued on that principal. If the candidate's authorized committee makes a repayment to the candidate, the candidate shall repay the original lender the same amount of the repayment within thirty (30) days of receipt of the repayment from the candidate's authorized committee. Failure to repay the lender within thirty (30) days constitutes the personal use of campaign funds and is prohibited under 11 CFR 113.2.

(v) Loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate shall be reported by the candidate's principal campaign committee in accordance with 11 CFR part 104.

* * * * *

3. 11 CFR 100.8 would be amended by revising paragraph (b)(12) and adding new paragraph (b)(24) to read as follows:

§ 100.8 Expenditures (2 U.S.C. 431(9)).

* * * * *

(b) * * *

(12) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration is not an expenditure by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: Bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a) and (d). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement, except that, in the event of a signature by the candidate's spouse, the provisions of 11 CFR 100.7(a)(1)(i)(D) shall apply. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that the loan agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered an expenditure by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For the purpose of this paragraph, an overdraft made on a checking or savings

account shall be considered an expenditure unless: The overdraft is made on an account which is subject to automatic overdraft protection; and the overdraft is subject to a definite interest rate and a definite repayment schedule. However, this paragraph (b)(12) shall not apply to any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in paragraph (b)(24) of this section.

* * * * *

(24) Any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, as defined in 11 CFR 100.7(b)(22).

* * * * *

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

4. The authority for part 104 would continue to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432 (i), 434, 438(a), 438(b), 439a.

5. 11 CFR 104.3 would be amended by revising paragraphs (a)(3)(vii)(c), (b)(2)(iii)(c), (b)(4)(iii) and (iv), the introductory text of paragraphs (d) and (d)(1), and adding paragraphs (a)(3)(vii)(D), (b)(2)(iii)(D), and (d)(4) to read as follows:

§ 104.3 Contents of reports (2 U.S.C. 434(b), 439(a))

(a) * * *

(3) * * *

(vii) * * *

(C) Any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24); and

(D) Total loans;

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(C) Repayment of any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24); and

(D) Total loans;

* * * * *

(4) * * *

(iii) Each person who receives a loan repayment, including a repayment of a loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24), from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(iv) Each person who receives a loan repayment, including a repayment of a loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24), from the candidate during the reporting period, if the proceeds of such loan were used in connection with the candidate's campaign, together with the date and amount of such loan repayment;

* * * * *

(d) *Reporting debts and obligations.* Each report filed under 11 CFR 104.1 shall, on Schedule C or D, as appropriate, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Loans, including a loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22), obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee, if such loans are outstanding at the time the individual becomes a candidate. Where such debts and obligations are settled for less than their reported amount or value, each report filed under 11 CFR 104.1 shall contain a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the amount paid. See 11 CFR 116.7.

(1) In addition, when a candidate or political committee obtains a loan from, or when a political committee establishes a line of credit at, a lending institution as described in 11 CFR 100.7(b)(11) and 100.8(b)(12), it shall disclose in the report covering the period when the loan or line of credit was obtained, the following information on schedule C–1 or C–P–1:

* * * * *

(4) When a candidate obtains a loan of money derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24), the candidate's principal campaign committee shall disclose in the report covering the period when the loan or line of credit was obtained, the following information on schedule C–2 or C–P–2:

(i) The date, amount, and interest rate of the loan, advance, or line of credit;

(ii) The name and address of the lending institution;

(iii) The types and value of collateral or other sources of repayment that secure the loan, advance, or line of credit, if any; and

(iv) Each draw or advance on the credit card or line of credit.

* * * * *

6. 11 CFR 104.8 would be amended by adding paragraph (g) to read as follows:

§ 104.8 Uniform reporting of receipts.

* * * * *

(g) The principal campaign committee of the candidate shall report the receipt of any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24) as follows:

(1) If the loan is paid directly to the candidate's authorized committee, the amount of the loan shall be reported as an itemized entry on Schedule A;

(2) If the loan is paid to the candidate and the candidate makes a loan or a gift to the candidate's authorized committee, the money paid to the candidate shall be reported as a memo entry on Schedule A, and the candidate loan or gift to the candidate's authorized committee shall be reported as an itemized entry on Schedule A; or

(3) See 11 CFR 100.7(b)(22)(iii) for special reporting rules regarding certain loans used for a candidate's personal living expenses.

7. 11 CFR 104.9 would be amended by adding paragraph (f) to read as follows:

§ 104.9 Uniform reporting of disbursements.

* * * * *

(f) The principal campaign committee of the candidate shall report repayment of any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.7(b)(22) and 100.8(b)(24) as follows:

(1) If the candidate's authorized committee makes a repayment of the loan of money to either the candidate or the lending institution, the repayment shall be reported as an itemized entry on Schedule B; or

(2) If the candidate makes a repayment of the loan of money to the lending institution, regardless of whether the candidate has received a repayment from the candidate's authorized committee or repayment is from the candidate's personal funds, the repayment shall be reported as a memo entry on Schedule B.

8. The proposed revision of 11 CFR 104.18 published on May 9, 2001 (66 FR 23632) would be further amended by revising paragraphs (h)(1)(i) and (ii) and adding paragraph (h)(i)(iii) to read as follows:

§ 104.18 Electronic filing of reports (2 U.S.C. 432 (d) and 434 (a)(11)).

* * * * *

(h) (1) * * *

(i) Schedules C–1 and C–P–1, Loans and Lines of Credit From Lending Institutions (see 11 CFR 104.3(d);

(ii) Form 8, Debt Settlement Plan (see 11 CFR 116.7(e)); and

(iii) Schedule C–2 and C–P–2, Loans of Money Derived from an Advance on a Candidate's Brokerage Account, Credit Card, Home Equity Line of Credit, or Other Lines of Credit (see 11 CFR 104.3(d)).

* * * * *

PART 113—EXCESS CAMPAIGN FUNDS AND FUNDS DONATED TO SUPPORT FEDERAL OFFICEHOLDER ACTIVITIES (2 U.S.C. 439a)

9. The authority for part 113 would continue to read as follows:

Authority: 2 U.S.C. 432(h), 438 (a)(8), 439a, 441a.

10. 11 CFR 113.1 would be amended by revising the introductory text in paragraph (g)(6) to read as follows:

§ 113.1 Definitions (2 U.S.C. 439a)

* * * * *

(g) * * *

(6) *Third party payments.* Notwithstanding that the use of funds for a particular expense would be a personal use under this section, payment of that expense by any person other than the candidate or the campaign committee shall be a contribution under 11 CFR 100.7 to the candidate unless the payment would have been made irrespective of the candidacy. ''Payment'' includes repayment, endorsement, guarantee, or co-signature of a loan described in 11 CFR 100.7(b)(22) and used for the candidate's personal living expenses. Examples of payments considered to be irrespective of the candidacy include, but are not limited to, situations where—

* * * * *

Dated: July 19, 2001.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 01–18439 Filed 7–24–01; 8:45 am]

BILLING CODE 6715–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–381–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 707 and 720 series airplanes. This proposal would require installation of a new support structure for the trailing edge beam and main landing gear uplock mechanism. This action is necessary to prevent cracking in the frame and adjacent structure near the attach bolt of the main landing gear uplock mechanism, which could lead to compromised structural integrity. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–381–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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–381–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Duong Tran, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2773; 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–381–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–381–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that cracks have been discovered in station 900 frame and its adjacent structure, near the attach bolt of the main landing gear (MLG) uplock mechanism. These cracks were caused by flexure of the wing, imposing

bending loads on the frame, in addition to the normal tension loads. This cracking condition, if not corrected, could result in compromised structural integrity of the MLG.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 2411, Revision 2, dated April 29, 1968, which describes procedures for, among other things, the installation of a new support structure for the trailing edge beam and main landing gear uplock mechanism. Accomplishment of the actions specified in the service bulletin 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 service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that this proposed AD would mandate the preventative modification described in Part III—Modification Data of the Accomplishment Instructions of Boeing Service Bulletin 2411, Revision 2, dated April 29, 1968, prior to the accumulation of 20,000 total flight cycles, or within 24 months from the effective date of the AD, whichever occurs later. (Incorporation of the specified preventative modification is recommended in the service bulletin ''at the next major overhaul,'' except for repair.)

The proposed AD also differs from the service bulletin in that it would not require the repetitive inspections to detect cracks in the support structure for the trailing edge beam and main landing gear uplock. The decision to mandate the preventative modification of the main landing gear uplock mechanism is based on the FAA's determination that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not provide the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed preventative modification requirement is consistent with these findings.

Cost Impact

There are approximately 84 airplanes of the affected design in the worldwide fleet. The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 80 work hours per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $15,000 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $198,000, or $19,800 per airplane.

The cost impact figure discussed above is 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–381–AD.

Applicability: Model 707 and 720 series airplanes, certificated in any category, as listed in Boeing Service Bulletin 2411, Revision 2, dated April 29, 1968.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking in the frame and adjacent structure near the attach bolt of the main landing gear (MLG) uplock mechanism, which could lead to compromised structural integrity of the MLG, accomplish the following:

Modification

(a) Prior to the accumulation of 20,000 flight cycles, or within 24 months from the effective date of this AD, whichever occurs later, install a new support structure for the MLG uplock mechanism in accordance with Part III—Modification Data of the Accomplishment Instructions of Boeing Service Bulletin 2411, Revision 2, dated April 29, 1968.

Alternative Methods of Compliance

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

Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 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

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

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

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18437 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–335–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dassault Model Mystere-Falcon 50 series airplanes. This proposal would require repetitive tests of double-skin feeder tanks for fuel leaks, and corrective actions, if necessary. It would also require modification of seals in the feeder tanks, which would terminate the repetitive leak tests. This action is prompted by issuance of mandatory continuing airworthiness information by a foreign airworthiness authority. The actions specified by the proposed AD are intended to prevent fuel leaks from the feeder tanks, which could result in fuel vapors in the cabin, which could come into contact with ignition sources. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 24, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–335–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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–335–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 Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

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–335–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 Number 2000–NM–335–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Dassault Model Mystere-Falcon 50 series airplanes. The DGAC advises that inspections have shown a defect of the seals on double-skin feeder tanks on frames 28, 29, and 31. This defect was discovered during a quality inspection on the aircraft production line and is apparently due to a problem in quality control. This condition, if not corrected, could result in fuel leaks from the feeder tanks, which could result in fuel vapors in the cabin, which could come into contact with ignition sources.

Explanation of Relevant Service Information

Temporary Revision No. 19 to the Dassault Falcon 50 Maintenance Manual, dated April 2000, describes procedures for the repetitive leak tests of the feeder tanks and for renewing the seal if a leak is detected.

Dassault has issued Service Bulletin F50–328, dated May 31, 2000, which describes procedures for reworking the seals in the lower sections of the feeder tanks at frames 28 and 31. Reworking these seals would eliminate the repetitive leak testing of the feeder tanks.

Accomplishment of the actions specified in the service information is intended to adequately address the identified unsafe condition. The DGAC classified the service bulletin as mandatory and issued French airworthiness directive 2000–163–030(B), dated April 19, 2000, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the maintenance manual and the service bulletin described previously.

Cost Impact

The FAA estimates that there are 27 airplanes of U.S. registry that would be affected by this proposed AD. The FAA estimates that it would take approximately 8 work hours per airplane to accomplish the proposed leak tests, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed leak tests on U.S. operators is estimated to be $12,960, or $480 per airplane, per test.

The FAA estimates that it would take approximately 50 work hours per airplane to accomplish the proposed reworking of the seals in the feeder tanks, and that the average labor rate is $60 per work hour. The required parts would be provided at no charge to the operator. Based on these figures, the cost impact of the reworking of the seals on U.S. operators is estimated to be $81,000, or $3,000 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:

Dassault Aviation: Docket 2000–NM–335–AD.

Applicability: Model Mystere-Falcon 50 series airplanes, certificated in any category, serial numbers 253 to 286 inclusive, 288, 290, and 291.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leaks from the feeder tanks, which could result in fuel vapors in the cabin, which could come into contact with ignition sources, accomplish the following:

Leak Testing

(a) Within 7 months after the effective date of this AD: Perform a feeder tank leak test by sampling at the drain ports of frames 29 and 31, in accordance with Temporary Revision No. 19 to the Dassault Falcon 50 Maintenance Manual, dated April 2000. Repeat the leak test at intervals not to exceed 13 months, until accomplishment of paragraph (c) of this AD.

Corrective Action

(b) If the feeder tank leak test indicates that a leak is present: Prior to further flight, renew the seal, in accordance with Temporary Revision No. 19 to the Dassault Falcon 50 Maintenance Manual, dated April 2000.

Modification

(c) Within 78 months since the date of manufacture of the airplane: Rework the seals of the feeder tanks at frames 28 and 31, in accordance with Dassault Service Bulletin F50–328, dated May 31, 2000. Accomplishment of the rework terminates the requirements of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

(e) 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.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–163–030(B), dated April 19, 2000.

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

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18436 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–332–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –200C, –300, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–200, –200C, –300, and –500 series airplanes. This proposal would require replacement of the bolt and self-locking nut on the primary support pin of the main landing gear (MLG) support beam with a new bolt, castellated nut, washer, and cotter pin. This action is necessary to prevent the loosening and loss of the support pin retaining bolt on the MLG, which could result in the loosening and movement of the support pin and consequent cracked support fittings and collapse of the MLG. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–332–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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–332–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James Blilie, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2131; 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–332–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–332–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report from the manufacturer indicating that specific production lots of Kaynar self-locking nuts did not meet the minimum locking torque level required by their specifications. These self-locking nuts are installed on the retaining bolt for the primary support pin of the left and right main landing gear (MLG) support beams. Because the nuts do not meet minimum locking torque levels, it is possible they could back off the retaining bolt, which could lead to the retaining bolt and primary support pin departing the airplane. This condition, if not corrected, could result in collapse of the MLG.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–57A1260, dated June 15, 2000; and Revision 1, dated October 12, 2000; which describe procedures for removing the retaining bolt and self-locking nut from the primary support pin of the left and right MLG support beams and replacing them with a new bolt, castellated nut, washer, and cotter pin. The alert service bulletin covers the 737–200, –200C, –300, and –500 airplanes. The 737–400 has a different design which is not interchangable and is not included in the alert service bulletin. Accomplishment of the actions specified in the alert service bulletin 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 alert service bulletin described previously.

Cost Impact

There are approximately 2,300 airplanes of the affected design in the worldwide fleet. The FAA estimates that 980 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $39 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $391,020, or $399 per airplane.

The cost impact figure discussed above is 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–332–AD.

Applicability: Model 737–200, –200C, –300, and –500 series airplanes, as identified in Boeing Alert Service Bulletin 737–57A1260, Revision 1, dated October 12, 2000, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loosening and loss of the support pin retaining bolt on the main landing gear (MLG), which could result in the loosening and movement of the support pin, consequent cracked support fittings, and collapse of the MLG, accomplish the following:

Replacement

(a) Within 12 months from the effective date of this AD, or within 1,500 flight cycles from the effective date of this AD, whichever occurs first, replace the bolt, nut, and associated hardware of the support beam for the MLG with a new bolt, castellated nut, and new hardware, per the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1260, dated June 15, 2000; or Boeing Alert Service Bulletin 737–57A1260, Revision 1, dated October 12, 2000.

Alternative Methods of Compliance

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

Note 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

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

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18435 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–387–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 777 series airplanes. This proposal would require modification of the supports for the fuel quantity indicator system (FQIS) wire bundles. This action is necessary to prevent chafing of the FQIS wiring on surrounding structures and systems, which could result in exposure of the bare conductor in close proximity to structures or other electrically conductive return paths and a consequent possibility of electrical arcing and explosion in the fuel tank in the event of an additional wiring failure outside the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–387–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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–387–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ed Hormel, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2681; 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–387–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–387–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

As a result of a 747–100 accident investigation, the FAA conducted an inspection of the fuel quantity indicator system (FQIS) wiring in a 777–300 center fuel tank (CFT). This inspection identified several potential FQIS wire chafing concerns. Boeing 777–200 airplanes with increased capacity CFTs share the same CFT design and potential wire chafing concerns as the 777–300 airplanes. FQIS wiring on 777–200 and –300 airplanes, which is routed through penetrations in the CFT spanwise beams and side body ribs, has inadequate clearance, excessive slack, and is unprotected from chafing and damage. Also, FQIS wiring secured by P-clamps mounted on flat bracket plates is exposed to chafing on the bracket plate edges and airplane structure. Fuel sloshing, vibration, and normal maintenance activity within the fuel tanks over the lifetime of the airplane increases the risk of chafing and damage to wire that is inadequately secured and protected. Chafed FQIS wiring, with bare conductor exposed, and in close proximity to structures or other electrically conductive return paths, is a potential ignition source when combined with certain FQIS wiring or component failures. This condition, if not corrected, could result in electrical arcing and explosion in the fuel tank.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Special Attention Service Bulletin 777–28–0012, dated September 2, 1999 (for Model 777–200 series airplanes), which describes procedures for replacement, with new brackets and seals, of the wiring support brackets for the FQIS wire bundles at the structural penetration points where the wire bundles enter the CFT.

The FAA has reviewed and approved Boeing Special Attention Service Bulletin 777–28–0016, dated April 27, 2000 (for Model 777–200 and –300 series airplanes), which describes procedures for modification of the FQIS wiring in the CFT by increasing the separation between wire and surrounding structures and systems, and by controlling the wire slack at clamping locations. The modification involves installing spacers on the FQIS wiring support brackets and standoffs, installing a clamp next to the grommet at each tank unit, and replacing the clamp filler O-rings.

The FAA has also reviewed and approved Boeing Special Attention Service Bulletin 777–28–0021, dated April 27, 2000 (also for Model 777–200 and -300 series airplanes), which describes procedures for modification of the FQIS wiring in the main fuel tanks, also by increasing the separation between wire and surrounding structures and systems and by controlling the wire slack at clamping locations. The modification involves installing spacers on the FQIS wiring support brackets and standoffs, installing a clamp next to the grommet at each tank unit, and replacing the clamp filler O-rings.

Accomplishment of the actions specified in each of the above-referenced service bulletins 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 service bulletins described previously, except as discussed below. The proposed AD also would require that operators report results of inspection findings to the manufacturer.

Differences Between Proposed Rule and Service Bulletins

Operators should note that, although the service bulletins recommend accomplishing the modifications ''at a convenient maintenance opportunity when manpower and facilities are available,'' the FAA has determined that such an imprecise compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modifications. In light of all of these factors, the FAA finds a compliance time of 24 months for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Operators should also note that, although the service bulletins do not give specific instructions for the disposition of any damaged wire encountered during the modifications, this AD would require that any damaged wire (i.e., chafed wire, or wire with exposed conductor, broken insulation, conductor, or shielding) must be replaced per the Boeing Standard Wiring Practices Manual D6–54446, Chapter 20, Section 10, Subject 11 (20–10–11), dated August 1, 1996, and any

damage reported to the Boeing Company.

Cost Impact

There are approximately 266 airplanes of the affected design in the worldwide fleet. The FAA estimates that 75 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately the number of work hours per airplane displayed in the table below to accomplish the proposed modifications, and that the average labor rate is $60 per work hour. Required parts costs are also listed in the table below:

ESTIMATED COST IMPACT

Boeing service bulletin	Number of work hours per airplane	Parts cost per airplane	Estimated cost per airplane	Number of U.S. airplanes affected	Estimated cost to U.S. fleet
777–28–0012	38	$628	$2,908	23	$66,884
777–28–0016 (Group 1)	43	490	3,070	18	55,260
777–28–0016 (Group 2)	48	839	3,719	57	211,983
777–28–0021 (Work Package 1)	30	1,058	2,858	75	214,350
777–28–0021 (Work Package 2)	32	1,058	2,978	75	223,350

Service Bulletins 777–28–0012 and 777–28–0016 both address CFT wiring improvements and require CFT entry. Operators should note that concurrent incorporation of these two service bulletins would minimize tank entries and would be a cost saving (33 work hours per airplane) to the operators because they would need to de-fuel, access, and close access to the CFT only once.

The cost impact figures discussed in the above table 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. The figures in the table above do not include incidental costs, such as 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–387–AD.

Applicability: Model 777 series airplanes, certificated in any category, line numbers 1 through 266, inclusive.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 prevent chafing of the fuel quantity indicator system (FQIS) wiring on surrounding structures and systems, which could result in exposure of the bare conductor in close proximity to structures or other electrically conductive return paths and a consequent possibility of electrical arcing and explosion in the fuel tank in the event of an additional wiring failure outside the fuel tank, accomplish the following:

(a) Within 24 months after the effective date of this AD, complete the actions required by paragraphs (a)(1), (a)(2), and (a)(3) of this AD, as applicable.

Modification of Model 777–200 Center Fuel Tank Wiring

(1) For Model 777–200 series airplanes identified in Boeing Special Attention Service Bulletin 777–28–0012, dated September 2, 1999, modify the FQIS wire bundles (including removing the FQIS wire bundle support brackets at each spanwise beam penetration and replacing them with seals; removing the FQIS wire bundle support brackets from the side of the body rib; installing a grommet in the penetration hole; and replacing the bracket with two new brackets) in accordance with the Accomplishment Instructions of the service bulletin.

Modification of Model 777–200 and –300 Center Fuel Tank Wiring

(2) For Model 777–200 and –300 series airplanes identified in Boeing Special Attention Service Bulletin 777–28–0016, dated April 27, 2000, modify the supports for the FQIS wire bundles in the center fuel tank (including installing spacers on the FQIS wiring support brackets and standoffs; installing a clamp next to the grommet at each tank unit; and replacing the clamp filler O-rings), in accordance with the Accomplishment Instructions of that service bulletin.

Modification of Model 777–200 and –300 Main Fuel Tank Wiring

(3) For Model 777–200 and –300 series airplanes identified in Boeing Special Attention Service Bulletin 777–28–0021, dated April 27, 2000, modify the FQIS wire bundles in the main fuel tanks (including

installing spacers on the wiring support brackets and standoffs; installing a clamp next to the grommet at each tank unit; and replacing the clamp O-rings), in accordance with the Accomplishment Instructions of that service bulletin.

Replacement and Reporting of Damaged Wiring

(b) If any damaged wiring is found during the performance of the modifications required by paragraph (a)(1), (a)(2), or (a)(3) of this AD, before further flight, replace the damaged wiring with new wiring in accordance with Boeing Standard Wiring Practices Manual D6–54446, Chapter 20, Section 10, Subject 11 (20–10–11), dated August 1, 1996. Submit a report of damaged wire findings to the Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207, at the applicable time specified in paragraph (b)(1) or (b)(2) of this AD. The report must include a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the modifications are accomplished after the effective date of this AD: Submit the report within 14 days after performing the applicable modification required by paragraph (a)(1), (a)(2), or (a)(3) of this AD.

(2) For airplanes on which the modifications have been accomplished prior to the effective date of this AD: Submit the report within 14 days after the effective date of 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 July 19, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18473 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 00P–1322]

Food Safety and Food Labeling; Presence and Labeling of Allergens in Foods

AGENCY: Food and Drug Administration, HHS.

ACTION: Announcement of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting on the labeling of food products containing allergens. The purpose of the meeting is to stimulate discussion and to obtain information to help FDA determine what additional actions may be necessary to provide consumers with adequate information on product labels. The meeting will focus on: Source or plain English labeling; advisory labeling (e.g., ''May contain [name of food allergen]''); and labeling of ingredients exempted from declaration (common or usual names of flavorings, spices, and colors; incidental additives).

DATES: The public meeting will be held on August 13, 2001, from 9 a.m. to 4 p.m. Please preregister by close of business on August 6, 2001. Preregistered persons should check in before the meeting between 8:30 a.m. and 9 a.m. Late registration will be accepted contingent on space availability. Comments must be submitted no later than October 29, 2001.

ADDRESSES: The meeting will be held at the Cohen Bldg., 330 Independence Ave. SW., Washington, DC 20201, 202–619–1299 (Metro: Federal Center SW.). All attendees must enter the building at the Independence Ave. entrance.

Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. You may also send comments to the Dockets Management Branch at the following e-mail address: FDADOCKETS@oc.fda.gov, or at http://www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm.

FOR FURTHER INFORMATION CONTACT:

For registration: Please register by close of business on August 6, 2001, electronically at http://www.accessdata.fda.gov/scripts/oc/dockets/meetings/meetingdocket.cfm. Once on this Internet site, select Docket No. 00P–1322 (Food Labeling and Allergen Contamination Control) and follow the directions. You may also register by mail at Dockets Management Branch (address above).

For registration information: Ayesha Weaver, Center for Food Safety and Applied Nutrition (HFS–822), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–3587, FAX 202–205–5295.

For general information: Catalina Ferre-Hockensmith, Center for Food Safety and Applied Nutrition (HFS–822), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4168, FAX 202–205–5295.

SUPPLEMENTARY INFORMATION:

I. Background

Each year FDA receives reports of consumers who experience adverse reactions following exposure to allergenic substances in foods. Food allergies are abnormal responses of the immune system, especially the production of allergen-specific IgE antibodies, to naturally occurring proteins in certain foods that most individuals can eat safely. Most consumers are aware of their specific sensitivities and rely on the food label to avoid foods that might result in an allergenic reaction. However, adverse reactions often occur when an allergen-sensitive consumer consumes an allergenic substance that has not been declared on the food label.

Section 403 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343) requires food labels to bear a complete listing of all the ingredients in a food. This permits consumers to obtain accurate information about the foods that they eat by reading the ingredient list. However, the act and FDA's regulations provide two narrow exemptions from the ingredient labeling requirement. First, section 403(i) of the act provides that flavorings, spices, and colors may be declared collectively without naming each one. In some instances, these collective ingredients contain subingredients that are allergens. (FDA is exploring whether allergenic ingredients in spices, flavorings, or colors should be declared, section 403(i) of the act notwithstanding.) Second, FDA regulations exempt incidental additives (e.g., processing aids) from ingredient declaration if they are present in a food at insignificant levels and do not have a technical or functional effect in the finished product (§ 101.100(a)(3) (21 CFR 101.100(a)(3))). Thus, in some cases

food labels may not provide consumers with food allergies with information about all the ingredients that are in the foods that they eat.

In addition to exemptions for ingredient labeling, there are other ways in which consumers may inadvertently come in contact with allergenic substances. For instance, some consumers may be unaware of the allergenic source of ingredients declared by their common or usual names in the ingredient statement. For example, consumers may not understand that the source of the ingredients ''whey'' and ''casein'' is ''milk,'' which is a common food allergen. Another area of concern is the potential, inadvertent introduction of an allergenic ingredient to a food (e.g., cross-contact during manufacturing where traces of peanuts end up in a product that does not normally contain peanuts because the product is manufactured on the same production line as a product containing peanuts).

The undeclared presence of allergens in foods is a serious public health issue because the ingestion of food allergens is potentially life-threatening to sensitive individuals. Therefore, as part of its public health mission to keep food safe, FDA has been focusing increased attention and activity on issues relating to food allergens, especially the proper labeling of products containing such allergens and the control of food allergens in products not intended to contain such allergens.

Currently, the only successful method to manage food allergy is avoidance of foods containing the allergen. FDA's allergen awareness efforts are currently focused on the eight foods that are most frequently implicated in serious allergic responses: (1) Peanuts; (2) soybeans; (3) milk; (4) eggs; (5) fish; (6) crustacea (e.g., lobster, crab, shrimp); (7) tree nuts (e.g., almonds, chestnuts, macadamia nuts, pecans, walnuts, hazelnuts or filberts, cashews, brazil nuts, pistachios, pine nuts); and (8) wheat.

There has been growing activity surrounding food allergens. The number of allergen-related food recalls increased steadily since 1990. Further, FDA has received correspondence from consumers, as well as from members of Congress (on behalf of their constituents) expressing concern about undeclared allergens in foods. FDA has also received a citizen petition requesting agency action to address food allergens (Docket No. 99P–2148). Similarly, in May of 2000, the attorneys general of nine States expressed their concern about food allergens and submitted a petition asking FDA to amend its regulations on food labeling and manufacturing practices (Docket No. 00P–1322).

In response to food allergy concerns, the Food Allergy Issues Alliance (a private group comprised of industry and trade group representatives and a consumer group, as well as a scientific advisor representing academia) recently submitted (May 2001) a consensus document on guidelines for food allergen labeling (Ref. 1). The Food Allergy Issues Alliance asserted that the guidelines would address food allergen issues their member companies would be implementing soon without requiring FDA to amend or issue regulations.

FDA replied to their submission (Refs. 2, 3, and 4) stating that the agency considered the guidelines a significant step forward in addressing the prevalence and identification of the eight most common food allergens in plain, simple language. The agency also indicated it was pleased that the document recognized the public health need to disclose food allergens. FDA finally noted that the Food Allergy Issues Alliance guidelines laid the groundwork for addressing additional food allergen issues in the future. The agency finds the guidelines consistent with both our positions on food allergens (as articulated in the past) and with the purpose behind the public meeting, as described later in this document, and therefore is an appropriate starting point for discussions at the public meeting.

FDA's concern about food allergens has prompted several agency actions, most notably a notice to manufacturers on the label declaration of allergens (1996), an FDA/State partnership to increase industry's understanding of allergens and to identify effective manufacturing controls (1998), and issuance of food allergen guidance documents (2001). Information on these initiatives is available at the FDA Web site on allergens at http://www.cfsan.fda.gov/dms/wh-alrgy.html.

II. Public Meeting—August 13, 2001

FDA is announcing a public meeting on August 13, 2001, to explore certain allergen-related labeling issues in greater detail. The meeting is intended to aid the agency in determining what additional actions may be warranted to further assist consumers with food allergies in identifying products containing food allergens and to assist manufacturers in producing foods that are safe for consumers with food allergies.

The agency is requesting written and oral comments in three topic areas relating to food allergens within the context outlined above: (1) Source or plain English labeling; (2) advisory labeling (e.g., ''May contain [name of food allergen]''); and (3) labeling of ingredients exempted from declaration (common or usual names of flavorings, spices, and colors; incidental additives). Recommendations from the petition submitted by the attorneys general of nine States (Docket No. 00P–1322) and the allergen-labeling guidelines from the Food Allergy Issues Alliance (Ref. 1) are incorporated into the discussion of the three topic areas, as appropriate.

A. Source or Plain English Labeling

FDA recognizes that many of the common or usual names for ingredients listed in the ingredient statement are not understood by consumers to be derived from food allergens (e.g., ''caseinate'' or ''whey'' derived from ''milk'' and ''albumin'' derived from ''egg''). FDA is considering whether additional labeling of food products is necessary in some instances to ensure that allergenic consumers are informed about the presence of food allergens.

FDA is considering how best to make source or plain English labeling more widely available to consumers so that the labels will be more understandable. To assist the agency in its deliberations, FDA is asking several questions relating to source labeling:

1. What plain English terms would be understandable for the eight most common food allergens?

2. What source or plain English labeling format or formats would be most informative to consumers? Are the formats from the Food Allergy Issues Alliance appropriate and sufficient? Are the recommendations in the petition from the attorneys general of nine States warranted and beneficial? Are multiple formats confusing to consumers, and if so, is there a single format that would be preferable? If so, why?

3. Should source or plain English labeling be voluntary or mandatory for the eight most common food allergens?

B. Advisory Labeling (e.g., ''May contain [name of food allergen]'')

Advisory labeling includes statements such as ''may contain peanuts'' or ''made on shared equipment'' on food packaging labels. FDA's current position is that advisory labeling should not be used in lieu of adherence to good manufacturing practices (GMPs) because adhering to GMPs is essential for effective reduction of adverse reactions. Food that contains an allergen due to cross-contact or other contamination may be considered adulterated under section 402(a)(4) of the act (21 U.S.C. 342(a)(4)) because it has been prepared, packed, or held under insanitary

conditions that may render the food injurious to health. Thus, FDA believes advisory labeling should not be the norm, and manufacturers should strive to eliminate the presence of allergenic materials that are not intentionally added to a specific food product.

However, FDA recognizes that advisory labeling is an attempt by manufacturers to inform consumers of the possibility that cross-contact may have occurred such that the product contains an allergenic substance. FDA is considering whether, and if so, under what circumstances advisory labeling should be permitted when appropriate manufacturing controls are not sufficient to guarantee the absence of allergenic substances in a particular food product. If permitted, clear criteria will be needed to guide the use of such statements. Additionally, FDA is assessing whether advisory labeling is useful to consumers, how consumers interpret advisory labeling statements, and what wording would be most understandable. To help the agency better understand if there is a need for advisory labeling, when it would be appropriate, how such statements would be used by consumers, and what wording would be most helpful to the consumer, the agency asks the following questions:

1. Under what circumstances, if any, should advisory labeling statements (e.g., ''May contain [name of allergen]'') be permitted, and what impact would those circumstances have on manufacturers and on consumers? Should the recommendations in the petition from the attorneys general of nine States be adopted? Do the criteria from the Food Allergy Issues Alliance form a reasonable basis for determining when a manufacturer may use advisory labeling on a particular product or should other criteria be used? Why?

2. Are there better alternatives for advisory labeling than the type of wording that currently exists (e.g., ''May contain [name of specific allergen],'' ''Made on shared equipment,'' ''Manufactured in a facility that also processes [name of specific allergen]'')? Do such statements adequately inform consumers of possible cross-contact with allergenic materials? How do consumers interpret the wording of such labeling? Should advisory labeling statements be prescriptive (i.e., one or more specific statements) or flexible?

3. Where should advisory labeling statements be located on the food label? How prominent should advisory labeling statements be on the label? Should the location and prominence of advisory labeling statements be prescribed?

C. Labeling of Ingredients Exempted From Declaration (Common or Usual Names of Flavorings, Spices, and Colors; Incidental Additives)

1. Common or Usual Names of Flavorings, Spices, and Colors

As previously noted, the collective naming of flavors, spices, and certain colors is one of the exemptions to the requirement for the complete labeling of ingredients (section 403(i) of the act). This exemption permits these ingredients to be listed collectively in the ingredient statement (e.g., ''Ingredients: * * *flavorings * * *'') without naming each by its common or usual name. Food labels with collectively named flavorings, spices, and colors may not adequately inform individuals who wish to avoid allergenic substances, particularly when the allergenic substance is not specifically identified.

FDA believes that the declaration of allergenic ingredients in individual flavorings, spices, and colors is necessary for consumers to adequately protect themselves from exposure to food allergens. On a case-by-case basis, FDA has used notice-and-comment rulemaking to require the declaration of individual allergenic flavorings, spices, and colors. This is a labor-intensive and time-consuming process for the agency.

FDA is considering whether continuing to address allergenic flavorings, spices, and colors on a case-by-case basis is the best approach available to the agency. The petition from the attorneys general of nine States (Docket No. 00P–1322) recommended amending the regulations for flavorings derived from one of the eight most common allergenic substances to require the declaration of the presence of the allergen (e.g., peanut flavoring). The allergen-labeling guidelines from the Food Allergy Issues Alliance (Ref. 1) advocated additional voluntary disclosure of food allergens that are intentionally part of foods, including substances exempted from labeling by regulations (e.g., flavorings). Questions for the public meeting relate to the alternatives available to the agency:

1. Should the agency continue to address the labeling of individual allergenic flavorings, spices, and colors on a case-by-case basis, or should there be a generally applicable policy?

2. Should the information on allergenic components of flavorings, spices, and colors be included in the ingredient list? Is there a better location or format for this information? Explain.

3. For individual flavorings, spices, or colors that contain one of the eight most common allergens, should listing the common or usual name of the individual flavoring, spice, or color on the product labeling be voluntary or mandatory?

2. Labeling of Incidental Additives

Incidental additives that are present in a food at insignificant levels and do not have any technical or functional effect in that food have been exempted by regulation from labeling on an ingredient statement (§ 101.100(a)(3)). Incidental additives include substances that have no technical or functional effect in the finished product, processing aids, and substances that may migrate to the food from equipment or packaging. FDA has stated that because very small amounts of some allergenic substances can cause serious allergic responses, allergens that cause serious allergic reactions cannot be considered to be present at an ''insignificant'' level in the food. The agency has stated that all allergenic substances introduced as ingredients or as the result of manufacturing processes do not qualify as incidental additives and must be declared in the ingredient statement on the label of a food product (Ref. 5).

With regard to incidental additives, FDA understands that the main difficulty is that manufacturers may be unaware that a particular minor ingredient or processing byproduct may be allergenic and therefore must be declared on product labels. The petition from the attorneys general of nine States (Docket No. 00P–1322) recommended amending the regulations for ingredients that are derived from one of the eight most common allergenic substances to specify that such ingredients may not be considered incidental additives under § 101.100(a)(3) and must be declared on the product label. The allergen-labeling guidelines from the Food Allergy Issues Alliance (Ref. 1) suggested that food companies follow FDA's current guidance regarding the labeling of ''incidental ingredients'' that are or that contain one of the eight most common food allergens by declaring the allergen in the ingredient list of the food. The questions for the public meeting relate to gathering information and exploring educational alternatives to increase manufacturer understanding:

1. What, if any, minor ingredients would manufacturers be unlikely to recognize as containing food allergens and therefore not include on the label, and what kinds of manufacturing processes would manufacturers be unlikely to recognize as inadvertently introducing food allergens?

2. When products that contain food allergens will be further processed or

repacked, is food allergen labeling sufficient on such intermediate products or is it necessary to have clearer labeling on intermediate products to ensure that food allergens are appropriately declared on the retail packaging of the final product?

3. Should the agency codify its policy to specifically state that incidental additives that are food allergens are not exempt from labeling and must be declared in the ingredient statement on the label?

III. Summary

FDA's public meeting, scheduled for August 13, 2001, is intended to help the agency determine what additional actions may be warranted to provide consumers with adequate food allergen information on product labels. FDA recognizes that there are additional food allergen areas that may need to be addressed at future meetings or through agency actions, e.g., food handling practices and providing food allergen information in restaurant settings. However, at this time, the agency is focusing on issues relating to labeling and manufacturing of the eight most common food allergens; therefore, the public meeting will be restricted to discussion of the topic areas described above.

IV. Registration and Requests to Make Oral Presentations

If you would like to attend the meeting, you must preregister in writing by close of business on August 6, 2001, either electronically or by mail (information above). You must provide your name, title, business affiliation (if applicable), address, telephone number, fax number, e-mail address, and the type of organization you represent (e.g., industry, consumer organization).

Preregistered persons should check in before the meeting between 8:30 a.m. and 9 a.m. Persons who have not preregistered may register before the meeting between 8:30 a.m. and 9 a.m., dependent on space availability. All attendees must enter the building at the Independence Ave. entrance. If you need special accommodations due to disability (e.g., sign language interpreter), please inform the contact person when you register.

If, in addition to attending, you wish to make an oral presentation during the meeting, you must indicate this on your registration form and submit: (1) A brief written statement of the general nature of the views you wish to present, and (2) the names and addresses of all persons who will participate in the presentation. Depending on the number of people who register to make presentations, we will limit the time allotted for each presentation (from 3 to 5 minutes). If you decide at the meeting that you wish to make a comment, you must sign up at the registration desk, dependent on time availability. It is anticipated that, if time permits, persons attending the meeting will have the opportunity to ask questions during the meeting.

V. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding the topics addressed at the public meeting on or before October 29, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. Transcripts

You may access a copy of the transcript on the FDA Web site at http://www.fda.gov, request a transcript of the meeting from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 20 working days after the meeting, at a cost of 10 cents per page, or examine a transcript of the meeting after September 10, 2001, at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

1. Letter from Regina Hildwine, National Food Processors Association (NFPA), Lisa D. Katic, Grocery Manufacturers of America (GMA), and Anne Munoz-Furlong, Food Allergy and Anaphylaxis Network (FAAN), to Joseph A. Levitt, Center for Food Safety and Applied Nutrition (CFSAN), FDA, May 22, 2001.

2. Letter from Joseph Levitt, CFSAN/FDA, to Regina Hildwine of NFPA, May 30, 2001.

3. Letter from Joseph Levitt, CFSAN/FDA, to Lisa D. Katic of GMA, May 30, 2001.

4. Letter from Joseph Levitt, CFSAN/FDA, to Anne Munoz-Furlong of FAAN, May 30, 2001.

5. ''Compliance Policy Guide (CPG)—Statement of Policy for Labeling and Preventing Cross-Contact of Common Food Allergens'' http://www.fda.gov/ora/compliance—ref/cpg/cpgfod/cpg555–250.htm

VIII. Registration

REGISTRATION FORM—PUBLIC MEETING ON ALLERGENS IN FOODS

Instructions: Please register using this form by close of business on August 6, 2001, electronically at http://www.accessdata.fda.gov/scripts/oc/dockets/meetings/meetingdocket.cfm. Once on this Internet site, select Docket No. 00P–1322 (Food Labeling and Allergen Contamination Control) and follow the directions. You may also register by mail at Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 70852.

Name: _____
Title: _____
Organization: _____
Address: _____
Telephone: _____
FAX: _____
E-mail: _____

Please indicate the type of organization you represent:

Industry _____
Government _____
Consumer Organization _____
Media _____
Law Firm _____
Educational Organization _____
Other (specify) _____

Do you wish to make an oral presentation?

Yes _____
No _____

If yes, you must also submit the following:

1. A brief written statement of the general nature of the views you wish to present.

2. The names and addresses of all persons who will participate in the presentation.

Depending on the number of people who register to make presentations, we will limit the time allotted for each presentation (from 3 to 5 minutes).

Dated: July 20, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–18617 Filed 7–23–01; 12:16 pm]

BILLING CODE 4160–01–S

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Proposed Revisions of Freedom of Information Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996

AGENCY: National Labor Relations Board.

ACTION: Proposed rule.

SUMMARY: The National Labor Relations Board proposes to amend its regulations under the Freedom of Information Act (FOIA) governing the public disclosure of information to reflect changes in FOIA as a result of the enactment of the Electronic Freedom of Information Act Amendments of 1996 (E–FOIA). Among other things, this proposed rule implements expedited FOIA processing procedures; implements the processing deadlines and appeal rights created by E–FOIA; and describes the expanded range of records available to the public through the NLRB's Public Reading Room and the NLRB's Internet World Wide Web page.

DATES: Comments must be received on or before August 24, 2001.

ADDRESSES: Comments should be submitted in writing to Office of Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11602, Washington, DC 20570–0001.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, (202) 273–1936.

SUPPLEMENTARY INFORMATION: This document describes proposed revisions by the National Labor Relations Board of its regulations under the Freedom of Information Act which include new provisions to implement the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231). New provisions implementing the amendments are found at §§ 102.117 (a)(2) (electronic reading rooms), 102.117(c)(2)(i) and (ii) (timing of responses and expedited processing), 102.117(c)(2)(iii) (deletion marking and volume estimation), and 102.117(c)(2)(vi) (unusual circumstances). For specific sections and subsections of the regulations implementing the Electronic Freedom of Information Act Amendments of 1996, the following effective dates apply: 102.117(a)(2)—electronic reading rooms—November 1, 1997; 102.117(c)(2)(ii) and (c)(2)(vi)—processing requests with expedited treatment, and under unusual circumstances—October 2, 1997; and 102.117(c)(2)(iii)—volume estimation—October 2, 1997.

Regulatory Flexibility Act

The National Labor Relations Board, in accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), has reviewed these regulations and by approving it certifies that they will not have a significant economic impact on a substantial number of small entities. Under the Freedom of Information Act, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by the Agency are nominal. Further, the ''small entities'' that make FOIA requests, as compared with individual requesters and other requesters, are relatively few in number.

Executive Order 12866

The regulatory review provisions of Executive Order 12866 do not apply to independent regulatory agencies. However, because the Office of Management and Budget has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, we have consulted with that Office prior to issuing this proposed rule.

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 $ 100,000,000 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 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

This part does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Freedom of Information.

For the reasons set forth in the preamble, the National Labor Relations Board proposes to amend 29 CFR Chapter I, Part 102, as follows:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for part 102 continues to read as follows:

Authority: Sec. 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117 also issued under sec. 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 442a(j) and (k) of the Privacy Act (5 U.S.C. 55a(j) and (k)). Sections 102.143 through 102.155 also issued under sec. 504(c)(1) of the Equal Access to Justice Act as amended (5 U.S.C. 504(c)(1)).

2. Section 102.117 is amended by revising paragraphs (a) through (d) to read as follows:

§ 102.117 Board materials and formal documents available for public inspection and copying; requests for described records; time limit for response; appeal from denial of request; fees for document search and duplication; files and records not subject to inspection.

(a)(1) This subpart contains the rules that the National Labor Relations Board follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. Information routinely provided to the public as part of a regular Agency activity (for example, press releases issued by the Division of Information) may be provided to the public without following this subpart. Such records may also be made available in the Agency's reading room in paper form, as well as electronically to facilitate public access. As a matter of policy, the Agency will consider making discretionary disclosures of records or information exempt under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court.

(2) The following materials are available to the public for inspection and copying during normal business hours:

(i) All final opinions and orders made in the adjudication of cases;

(ii) Statements of policy and interpretations that are not published in the **Federal Register;**

(iii) Administrative staff manuals and instructions that affect any member of the public (excepting those establishing internal operating rules, guidelines, and procedures for investigation, trial, and settlement of cases);

(iv) A current index of final opinions and orders in the adjudication of cases;

(v) A record of the final votes of each Member of the Board in every Agency proceeding;

(vi) Records which have been released and which the Agency determines, because of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records; and

(vii) A general index of records referred to in paragraph (a)(2)(vi) of this section. Items in paragraphs (a)(2)(i) through (vii) of this section are available for inspection and copying during normal business hours at the Board's offices in Washington, DC. Item in paragraph (a)(2)(iii) of this section is also available for inspection and copying during normal business hours at each Regional, Subregional, and Resident Office of the Board. Final opinions and orders made by Regional Directors in the adjudication of representation cases pursuant to the delegation of authority from the Board under section 3(b) of the Act are available to the public for inspection and copying in the original office where issued. Records encompassed within paragraphs (a)(2)(i) through (a)(2)(vii) of this section created on or after November 1, 1996, will be made available by November 1, 1997, to the public by computer telecommunications or, if computer telecommunications means have not been established by the Agency, by other electronic means. The Agency shall maintain and make available for public inspection and copying a current subject matter index of all reading room materials which shall be updated regularly, at least quarterly, with respect to newly included records. Copies of the index are available upon request for a fee of the direct cost of duplication. The index of FOIA-processed records referred to in paragraph (a)(2)(vii) of this section will be available by computer telecommunications by December 31, 1999.

(3) Copies of forms prescribed by the board for the filing of charges under section 10 alleging violations of the Act under section 8, or petitions under section 9, may be obtained without charge from any Regional, Subregional, or Resident Office of the Board. These forms are available electronically through the Agency's World Wide Web site (which can be found at http://www.nlrb.gov).

(4) The Agency shall, on or before February 1, 1998, and annually thereafter, submit a FOIA report covering the preceding fiscal year to the Attorney General of the United States. The report shall include those matters required by 5 U.S.C. 552(e), and shall be made available electronically.

(b)(1) The formal documents constituting the record in a case or proceeding are matters of official record and, until officially destroyed pursuant to applicable statutory authority, are available to the public for inspection and copying during normal business hours at the appropriate Regional Office of the Board or at the Board's office in Washington, DC, as the case may be. If the case or proceeding has been closed for more than 2 years, the appropriate Regional Office of the Board or the Board's office in Washington, DC, upon request, will contact the Federal Records Center to obtain the records.

(2) The Executive Secretary shall certify copies of all formal documents upon request made a reasonable time in advance of need and payment of lawfully prescribed costs.

(c)(1) Requests for the inspection and copying of records other than those specified in paragraphs (a) and (b) of this section must be in writing and must reasonably describe the record in a manner to permit its identification and location. The envelope and the letter, or the cover sheet of any fax transmittal, should be clearly marked to indicate that it contains a request for records under the Freedom of Information Act (FOIA). The request must contain a specific statement assuming financial liability in accordance with paragraph (d)(2) of this section for the direct costs of responding to the request. If the request is made for records in a Regional or Subregional Office of the Agency, it should be made to that Regional or Subregional Office; if for records in the Office of the General Counsel and located in Washington, DC, it should be made to the Freedom of Information Officer, Office of the General Counsel, Washington, DC; if for records in the offices the Board or the Inspector General in Washington, DC, to the Executive Secretary of the Board, Washington, DC. Requests made to other than the appropriate office will be forwarded to that office by the receiving office, but in that event the applicable time limit for response set forth in paragraph (c)(2)(i) of this section shall be calculated from the date of receipt by the appropriate office. Requesters may be given an opportunity to discuss their request so that requests may be modified to meet the requirements of this section. In the case of records generated by the Inspector General and in possession of another office, or in the possession of the Inspector General but generated by another office of the Agency, the request may be referred to the generating office for decision. If the Agency determines that a request does not reasonably describe records, it may contact the requester to inform the requester either what additional information is needed or why the request is insufficient. Similar referrals may, in the Agency's discretion, be made between other offices.

(2)(i) The Agency ordinarily shall respond to requests according to their order of receipt. Effective October 2, 1997, an initial response shall be made within 20 working days(i.e. exempting Saturdays, Sundays, and legal public holidays) after the receipt of a request for a record under this part by the Freedom of Information Officer or his designee. An appeal under paragraph (c)(2)(v) of this section shall be decided within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such an appeal by the Office of Appeals or the Chairman of the Board. Because the Agency has been able to process its requests without a backlog of cases, the Agency will not institute a multitrack processing system.

(ii) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve: Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information; the loss of substantial due process rights; or a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence. A request for expedited processing may be made at the time of the initial request for records or at any later time. A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. The formality of certification may be waived as a matter of administrative discretion. Within ten calendar days of its receipt of a request for expedited processing, the Agency shall decide whether to grant it and shall notify the requester of the decision. Once the determination has been made to grant expedited processing, the request shall be given priority and shall be processed as soon as practicable. If a request for expedited processing is denied, the Agency shall act expeditiously on any appeal of that decision.

(iii) Within 20 working days after receipt of a request by the appropriate office of the Agency a determination shall be made whether to comply with such request, and the person making the

request shall be notified in writing of that determination. In the case of requests made to the Executive Secretary for Inspector General Records, that determination shall be made by the Inspector General. In the case of all other requests, that determination shall be made by the General Counsel's office, the Regional or Subregional Office, or the Executive Secretary's office, as the case may be. If the determination is to comply with the request, the records shall be made promptly available to the person making the request and, at the same time, a statement of any charges due in accordance with the provisions of paragraph (d) (2) of this section will be provided. If the determination is to deny the request in any respect, the requester shall be notified in writing of that determination. Adverse determinations, or denials of requests, consist of: A determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the Act; a determination on any disputed fee matter, including a denial of a request for a fee waiver or reduction or placement in a particular fee category; and a denial of a request for expedited treatment. For a determination to deny a request in any respect, the notification shall set forth the reasons therefor and the name and title or position of each person responsible for the denial, shall provide an estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation (this estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption), and shall notify the person making the request of the right to appeal the adverse determination under provisions of paragraph (c)(2)(v) of this section.

(iv) Business information obtained by the Agency from a submitter will be disclosed under the FOIA only consistent with the procedures established in this section.

(A) For purposes of this section:

(*1*) *Business information* means commercial or financial information obtained by the Agency from a submitter that may be protected from disclosure under Exemption 4 of the FOIA.

(*2*) *Submitter* means any person or entity from whom the Agency obtains business information, directly or indirectly. The term includes corporations; state, local, and tribal governments; and foreign governments.

(B) A submitter of business information will use goodfaith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period. The Agency shall provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its business information wherever required under paragraph (c)(2)(iv)(C) of this section, except as provided in paragraph (c)(2)(iv)(F) of this section, in order to give the submitter an opportunity to object to disclosure of any specified portion of that information under paragraph (c)(2)(iv)(D) of this section. The notice shall either describe the business information requested or include copies of the requested records or record portions containing the information. When notification of a voluminous number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish notification.

(C) Notice shall be given to a submitter wherever: the information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or the Agency has reason to believe that the information may be protected from disclosure under Exemption 4.

(D) The Agency will allow a submitter a reasonable time to respond to the notice described in paragraph (c)(2)(iv)(B) of this section. If a submitter has any objection to disclosure, it is required to submit a detailed written statement. The statement must specify all grounds for withholding any portion of the information under any exemption of the FOIA and, in the case of Exemption 4, it must show why the information is a trade secret or commercial or financial information that is privileged or confidential. In the event that a submitter fails to respond to the notice within the time specified in it, the submitter will be considered to have no objection to disclosure of the information. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(E) The Agency shall consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose business information. Whenever the Agency decides to disclose business information over the objection of a submitter, the Agency shall give the submitter written notice, which shall include: A statement of the reason(s) why each of the submitter's disclosure objections was not sustained; a description of the business information to be disclosed; and a specified disclosure date, which shall be a reasonable time subsequent to the notice.

(F) The notice requirements of paragraphs (c)(2)(iv)(B) and (E) of this section shall not apply if: The Agency determines that the information should not be disclosed; the information lawfully has been published or has been officially made available to the public; disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 (3 CFR, 1988 Comp., p. 235); or the designation made by the submitter under paragraph (c)(2)(iv)(B) of this section appears obviously frivolous-except that, in such a case, the Agency shall, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information.

(G) Whenever a requester files a lawsuit seeking to compel the disclosure of business information, the Agency shall promptly notify the submitter.

(H) Whenever the Agency provides a submitter with notice and an opportunity to object to disclosure under paragraph (c)(2)(iv)(B) of this section, the Agency shall also notify the requester(s). Whenever the Agency notifies a submitter of its intent to disclose requested information under paragraph (c)(2)(iv)(E) of this section, the Agency shall also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the Agency shall notify the requester(s).

(v) An appeal from an adverse determination made pursuant to paragraph (c)(2)(iii) of this section must be filed within 20 working days of the receipt by the person making the request of the notification of the adverse determination where the request is denied in its entirety; or, in the case of a partial denial, within 20 working days of the receipt of any records being made available pursuant to the request. If the adverse determination was made in a Regional Office, a Subregional Office, or by the Freedom of Information Officer, Office of the General Counsel, the appeal shall be filed with the General Counsel in Washington, DC. If the adverse determination was made by the

Executive Secretary of the Board or the Inspector General, the appeal shall be filed with the Chairman of the Board in Washington, DC. Within 20 working days after receipt of an appeal the General Counsel or the Chairman of the Board, as the case may be, shall make a determination with respect to such appeal and shall notify the person making the request in writing. If the determination is to comply with the request, the record shall be made promptly available to the person making the request upon receipt of payment of any charges due in accordance with the provisions of paragraph (d)(2) of this section. If on appeal the denial of the request for records is upheld in whole or in part, the person making the request shall be notified of the reasons for the determination, the name and title or position of each person responsible for the denial, and the provisions for judicial review of that determination under the provisions of 5 U.S.C. 552(4)(B). Even though no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the General Counsel or the Chairman of the Board may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of an adverse determination under this appeal procedure by written notification to the person making the request. In such event the time limit for making the determination shall commence with the issuance of such notification. An adverse determination by the General Counsel or the Chairman of the Board, as the case may be, will be the final action of the Agency. If the requester wishes to seek review by a court of any adverse determination, the requester must first appeal it under this section.

(vi) In unusual circumstances as specified in this paragraph, the time limits prescribed in either paragraph (c)(2)(i) or (iv) of this section may be extended by written notice to the person requesting the record setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice or notices shall specify a date or dates that would result in an extension or extensions totaling more than 10 working days with respect to a particular request, except as set forth below in this paragraph. As used in this paragraph, unusual circumstances means, but only to the extent reasonably necessary to the proper processing of the particular request:

(A) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

(C) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or with two or more components of the Agency having a substantial subject matter interest in the request. Where the extension is for more than ten working days, the Agency shall provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period for processing the request or a modified request.

(vii) The Agency shall preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

(d)(1) For purposes of this section, the following definitions apply:

(i) *Direct costs* means those expenditures which are actually incurred in searching for and duplicating and, in the case of commercial use requests, reviewing documents to respond to a FOIA request.

(ii) *Search* refers to the process of looking for and retrieving records or information responsive to a request.

It includes page-by-page or line-by-line identification of material within documents and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. The Agency shall ensure that searches are done in the most efficient and least expensive manner reasonably possible.

(iii) *Duplication* refers to the process of making a copy of a record, or the information contained in it, necessary to respond to a FOIA request. Such copies can take the form of paper, microfilm, videotape, audiotape, or electronic records (e.g., magnetic tape or disk), among others. The Agency shall honor a requester's specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format by the office responding to the request.

(iv) *Review* refers to the process of examining documents located in response to a request that is for commercial use to determine whether any portion of it is exempt from disclosure. It includes processing any documents for disclosure, e.g., doing all that is necessary to redact and prepare them for disclosure. Review time includes time spent considering any formal objection to disclosure made by a business submitter under paragraph (c)(2)(iv) of this section, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(v) *Commercial use request* refers to a request from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.

(vi) *Educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research.

(vii) *Representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in instances where they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. For ''freelance'' journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but the Agency shall also look to the past publication record of a requester in making this determination. To be in this category, a requester must not be seeking the requested records for commercial use. However, a request for records supporting the news dissemination function of the requester

shall not be considered to be for a commercial use.

(viii) *Working days,* as used in this paragraph, means calendar days excepting Saturdays, Sundays, and legal holidays.

(2) Persons requesting records from this Agency shall be subject to a charge of fees for the full allowable direct costs of document search, review, and duplicating, as appropriate, in accordance with the following schedules, procedures, and conditions:

(i) Schedule of charges:

(A) For each one-quarter hour or portion thereof of clerical time * * * $3.10

(B) For each one-quarter hour or portion thereof of professional time * * * $9.25

(C) For each sheet of duplication (not to exceed 8 1/2 by 14 inches) of requested records * * * $0.12

(D) All other direct costs of preparing a response to a request shall be charged to the requester in the same amount as incurred by the Agency. Such costs shall include, but not be limited to: Certifying that records are true copies; sending records to requesters or receiving records from the Federal records storage centers by special methods such as express mail; and, where applicable, the cost of conducting computer searches for information and for providing information in electronic format.

(ii) Fees incurred in responding to information requests are to be charged in accordance with the following categories of requesters:

(A) Commercial use requesters will be assessed charges to recover the full direct costs for searching for, reviewing for release, and duplicating the records sought. Requesters must reasonably describe the records sought.

(B) Educational institution requesters will be assessed charges for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are not sought for commercial use, but are sought in furtherance of scholarly research. Requesters must reasonably describe the records sought.

(C) Requesters who are representatives of the news media will be assessed charges for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in paragraph (d)(1)(vii) of this section, and the request must not be made for commercial use. In reference to this class of requester, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for commercial use. Requesters must reasonably describe the records sought.

(D) All other requesters, not elsewhere described, will be assessed charges to recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first 2 hours of search time shall be furnished without charge. Requesters must reasonably describe the records sought.

(E) Absent a reasonably based factual showing that a requester should be placed in a particular user category, fees will be imposed as provided for in the commercial use requester category.

(iii)(A) In no event shall fees be imposed on any requester when the total charges are less than $5, which is the Agency's cost of collecting and processing the fee itself.

(B) If the Agency reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the Agency may aggregate those requests and charge accordingly. The Agency may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. Where requests are separated by a longer period, the Agency will aggregate them only where there exists a solid basis for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(iv) Documents are to be furnished without charge or at reduced levels if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest. A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. Where only some of the requested records satisfy the requirements for a waiver of fees, a waiver shall be granted for those records.

(v) If a requester fails to pay chargeable fees that were incurred as a result of the Agency's processing of the information request, beginning on the 31st day following the date on which the notification of charges was sent, the Agency may assess interest charges against the requester in the manner prescribed in 31 U.S.C. 3717. Where appropriate, other steps permitted by federal debt collection statutes, including disclosure to consumer reporting agencies, use of collection agencies, and offset, will be used by the Agency to encourage payment of amounts overdue.

(vi) Each request for records shall contain a specific statement assuming financial liability, in full or to a specified maximum amount, for charges, in accordance with paragraphs (d)(2)(i) and (ii) of this section, which may be incurred by the Agency in responding to the request. If the anticipated charges exceed the maximum limit stated by the person making the request or if the request contains no assumption of financial liability or charges, the person shall be notified and afforded an opportunity to assume financial liability. In either case, the request for records shall not be deemed received for purposes of the applicable time limit for response until a written assumption of financial liability is received. The Agency may require a requester to make an advance payment of anticipated fees under the following circumstances:

(A) If the anticipated charges are likely to exceed $250, the Agency shall notify the requester of the likely cost and obtain satisfactory assurance of full payment when the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment.

(B) If a requester has previously failed to pay fees that have been charged in processing a request within 30 days of the date of the notification of fees was sent, the requester will be required to pay the entire amount of fees that are owed, plus interest as provided for in paragraph (d)(2)(v) of this section, before the Agency will process a further information request. In addition, the Agency may require advance payment of fees that the Agency estimates will be incurred in processing the further request before the Agency commences processing that request. When the Agency acts under paragraph (d)(2)(vi)(A) or (B) of this section, the administrative time limits for responding to a request or an appeal from initial denials will begin to run only after the Agency has received the fee payments required above.

(vii) Charges may be imposed even though the search discloses no records responsive to the request, or if records located are determined to be exempt from disclosure.

* * * * *

Dated, Washington, DC, July 18, 2001.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 01–18296 Filed 7–24–01; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

[Department of the Treasury Circular, Public Debt Series No. 1–93]

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Calculation of Net Long Position and 35 Percent Limit

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of the Treasury (''Treasury,'' ''We,'' or ''Us'') is issuing this Advance Notice of Proposed Rulemaking to solicit comments on potential modifications to the calculation of the net long position (''NLP'') and the 35 percent award limit in marketable Treasury securities auctions. The purpose of any such modifications would be to ensure that participation in Treasury auctions remains both strong and broad, particularly in ''reopenings,'' which are auctions of additional amounts of previously issued Treasury securities. Treasury is examining whether the current method for calculating the NLP unnecessarily limits or precludes participation in reopenings by auction participants that already hold significant amounts of the security we are auctioning. We are specifically interested in comments on an alternative that would permit bidders in reopenings to exclude a certain portion of their current holdings of the security being auctioned from their NLP calculation. We also discuss other alternatives for calculating the NLP and the 35 percent award limit. We invite comments on these alternatives as well.

DATES: Submit comments on or before September 10, 2001.

ADDRESSES: You may send hard copy comments to: Government Securities Regulations Staff, Bureau of the Public Debt, 999 E Street NW., Room 315, Washington, DC 20239. You may also send us comments by e-mail at *govsecreg@bpd.treas.gov.* When sending comments by e-mail, please use an ASCII file format and provide your full name and mailing address. You may download this advance notice, and review the comments we receive, from the Bureau of the Public Debt's website at *www.publicdebt.treas.gov.* The advance notice and comments will also be available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To visit the library, call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena (Executive Director), Chuck Andreatta (Senior Financial Advisor), or Lee Grandy (Associate Director), Bureau of the Public Debt, Government Securities Regulations Staff, (202) 691–3632.

SUPPLEMENTARY INFORMATION: The Uniform Offering Circular, in conjunction with the offering announcement for each auction, provides the terms and conditions for the sale and issuance in an auction to the public of marketable Treasury bills, notes and bonds.[1] One of these terms (rules) is the limit on the award to any one bidder of 35 percent of the offering amount. In this notice, we first describe this rule and its rationale, and why we are considering a change. Second, we give historical background. Third, we describe various alternatives on which we are seeking comment.

I. The 35 Percent Limit and its Rationale

The 35 percent rule generally limits auction awards for any one competitive bidder to 35 percent of the total amount offered to the public in a particular auction.[2] This rule ensures that awards in our auctions are distributed to a number of auction participants, rather than to just one or two. This principle of broad distribution is intended to encourage participation by a significant number of competitive bidders in each auction. Broad participation keeps our borrowing costs to a minimum, helps ensure that Treasury auctions are fair and competitive, and makes it less likely that ownership of Treasury securities will become overly concentrated.

A key component of the 35 percent award limit is the net long position calculation.[3] If a bidder has a reportable NLP, we subtract it from the 35 percent award limit in determining the bidder's maximum award amount for the auction.

The net long position is generally the amount of the security being auctioned that a bidder has obtained, or has arranged to obtain, outside of the auction in the secondary market. The term ''net long'' refers to the extent to which an investor has bought (or has agreed to buy) more of a security than it has sold (or has agreed to sell). The specific components of the NLP are intended to capture the various ways that a bidder can acquire a Treasury security. As defined in § 356.13(b), these components are the par amount of:

(1) Holdings of outstanding securities with the same CUSIP[4] number as the security being auctioned;

(2) Positions, in the security being auctioned, in

(i) When-issued trading,[5]

(ii) Futures contracts that require delivery of the specific security being auctioned (but not futures contracts for which the security being auctioned is one of several securities that may be delivered, and not futures contracts that are cash-settled), and

(iii) Forward contracts (including next-day settling); and

(3) Holdings of STRIPS[6] principal components of the security being auctioned, including when-issued trading positions of such principal components.

A competitive bidder is required to report its NLP if the sum of its bids plus its NLP equals or exceeds the NLP reporting threshold, currently $2 billion for Treasury notes and bonds and $1 billion for Treasury bills (unless otherwise stated in the offering announcement).[7] If a bidder's total bids

[1] The Uniform Offering Circular was published as a final rule on January 5, 1993 (58 FR 412). The circular, as amended, is codified at 31 CFR part 356.

[2] 31 CFR 356.22(b).

[3] 31 CFR 356.13.

[4] Committee on Uniform Securities Identification Procedures. The CUSIP number is the unique identifying number assigned to each separate security issue and each separate STRIPS component.

[5] When-issued trading refers to trading in a security that occurs prior to its issuance. Payment and delivery for this trading activity occurs on the day we issue the securities, thus the term ''when-issued.'' In the Treasury securities market, when-issued trading can begin as soon as we publicly announce the upcoming auction. When-issued trading aids the distribution process for Treasury securities. Most importantly for the auction process, when-issued trading serves as a price-discovery mechanism for competitive bidders.

[6] Separate Trading of Registered Interest and Principal of Securities.

[7] 31 CFR 356.10.

exceed the reporting threshold but the bidder either has no position or has a net short position, it must report an NLP of zero.

The application of the NLP reporting requirement and the 35 percent award limit in reopenings has caused us to re-examine the way the NLP is calculated. In a reopening, we apply the 35 percent limit to the public offering amount of that specific auction. Because a bidder must include any holdings of the security being auctioned in its NLP calculation, it may be awarded less in a reopening than it would if it had no such holdings. The bidder's award may be reduced—or it may receive no award—even though the bidder's portion of the total amount outstanding of the security may be under 35 percent once we issue the additional reopening amount.

For example, assume a bidder owns $3.5 billion of a Treasury security that has $10 billion outstanding, and the bidder has no other positions in that security. If we were to reopen the security by offering an additional $10 billion to the public, that bidder would not be awarded any additional securities because its NLP of $3.5 billion would already equal the 35 percent limit ($10 billion × .35). However, after we issued the additional $10 billion, the bidder would hold only 17.5 percent of the total combined amount outstanding ($3.5 billion/$20 billion).

Reopenings are now more frequent because in February 2000 we adopted a policy of regular reopenings to preserve the liquidity of our longer-term securities as our borrowing needs have declined.[8] In addition, we announced today that we will begin four-week bill auctions the week of July 30. These auctions will be reopenings of previously issued Treasury bills. Along with the publication of this notice, Treasury is issuing a press release that describes the net long position reporting requirements and the application of the 35 percent award limit for Treasury four-week bill auctions while we consider whether to modify the rule.

Since Treasury announced its policy of more frequent reopenings, several auction participants have asserted that the likelihood of their being precluded from participating in a future reopening has increased because of the requirement to include current holdings of the security being auctioned in the NLP calculation. The Treasury Borrowing Advisory Committee of The Bond Market Association addressed this issue in May 2001. The Committee recommended that the auction rules be modified so that ''the net long position used in the calculation of a bidder's position refers only to the position in the when-issued security.'' [9] Regarding the 35 percent award limit itself, a majority of the Committee felt there was a need for some threshold limit but was unprepared to state what that limit might be.

The development of more frequent reopenings and declining borrowing needs make this an opportune time to re-examine the application of the NLP and the 35 percent limit. Our goal is to strike a better balance between fostering broad participation in Treasury auctions while still limiting the potential for concentration of ownership.

II. Historical Background

Application of the 35 percent award limit and the NLP reporting requirement has evolved over the years. The initial limitation, introduced in August 1962, was 25 percent of the auction offering amount. In May 1979, the 25 percent award limit was modified to apply to the ''public'' offering amount instead of the total offering amount. This modification excluded from the 25 percent calculation those Treasury securities allotted to the Federal Reserve in exchange for maturing securities held both for its own account and for the accounts of foreign official institutions. It also excluded Treasury securities allotted to the Federal Reserve for new cash tenders [10] on behalf of foreign official institutions. One consequence of this rule modification was that it reduced the possible award size for competitive bidders.

In September 1981, Treasury increased the maximum award in marketable Treasury securities auctions from 25 percent to 35 percent of the public offering amount. The ceiling was raised to lessen the effect of the 1979 modification that limited the 25 percent rule to the public offering amount instead of the total offering amount.

In July 1990, the 35 percent limit was extended to bids as well as awards, limiting the maximum bid that we would recognize at any one yield to 35 percent of the public offering amount.

Although some changes have been made to NLP reporting and the ''public offering amount'' to which the 35 percent limit is applied, the basic 35 percent rule has remained unchanged since 1990. We note that after the Uniform Offering Circular was published in proposed form on January 31, 1992 (57 FR 3870), several commenters questioned the requirement that, in a reopening, a bidder include its holdings of the outstanding security in its NLP calculation. At that time, we retained the provision because, ''[i]f the holdings of the issue being reopened were to be excluded from the net long position computation, a holder of a large outstanding amount could receive an auction award that, when combined with its net long position, would highly concentrate the holdings of the security as a result of the reopening. Similarly, if the 35% were to be applied to the combined auction amounts, holders of relatively small amounts of outstanding securities would be in a position to receive significantly more than 35% of the additional offering.'' [11]

III. Alternatives

We are considering a number of alternatives to reach our goal of fostering broad participation in Treasury auctions while limiting the potential for concentration of ownership. As a result of our considerations to this point, we feel currently that Alternative 1 is the most workable. We are inviting comments on these alternatives.

Alternative 1: Optional excludable amount for a portion of a bidder's current holdings. Under this alternative, a bidder would have the option of subtracting from the current holdings component of the NLP, combined with any STRIPS principal components of the security being auctioned, up to 35 percent of the combined prior offering amounts of that security. We would specify in the offering announcement for the reopening the amount of holdings that may be excluded from the NLP calculation. The bidder would be required to include in the NLP calculation any holdings above this announced excludable amount.

Here's an example. Suppose we reopen a Treasury note that had a previous offering amount of $10 billion by offering an additional $10 billion. Also suppose that a bidder already holds $3 billion par of that note, $1 billion of the note's STRIPS principal component, and no other position in the security. That bidder would be able to exclude $3.5 billion from its NLP calculation for the reopening auction since $3.5 billion is 35 percent of the previous offering amount. We would specify this $3.5 billion excludable amount in the reopening offering

[8] Treasury Press Release dated February 2, 2000.

[9] Report to the Secretary of the Treasury from the Treasury Borrowing Advisory Committee of The Bond Market Association (dated May 1, 2001). The Committee, which is comprised of securities industry representatives, provides periodic advice to Treasury on debt management issues.

[10] New cash tenders are bids from foreign official institutions for amounts in excess of amounts of maturing Treasury securities that they hold.

[11] 57 FR 45117 (September 30, 1992).

announcement. The bidder's NLP calculation would therefore be $4 billion minus $3.5 billion, or $0.5 billion. The bidder could be awarded up to $3 billion more of the note in the reopening auction. If the bidder were to be awarded this amount in the reopening, on the settlement date it would have a total of $7 billion, or 35 percent, of the total $20 billion of the note outstanding (assuming there were no other changes in its position).

Alternative 2: Eliminate the NLP reporting requirement altogether and reduce the 35 percent limit to 25 percent (or some other amount below 35 percent). We are including this alternative as a possible means to overcome the operational difficulties that can result from bidders having to calculate their net long positions shortly before the competitive bidding deadline.

Alternative 3: Keep the current NLP calculation requirement, but Treasury would compute the 35 percent limit based on the offering amount plus any previous offering amounts. For example, if we offered $10 billion of a Treasury security in a previous auction, and we offered an additional $10 billion of the security in a reopening, a bidder with no net long position would be able to purchase up to $7 billion ($20 billion × .35%) of the reopening offering. (If the security were being offered for a third time for an additional $10 billion, a bidder with no NLP could be awarded the entire amount of the reopening.)

Alternative 4: Continue to calculate the 35 percent limit on the reopening public offering amount, but redefine the net long position as including only the when-issued position. This was the recommendation of the Treasury Borrowing Advisory Committee of The Bond Market Association.

Alternative 5: Keep the current NLP calculation requirement, but increase the 35 percent limit.

Alternative 6: Retain both the 35 percent limit and the NLP reporting requirement as they exist now.

In addition to inviting comments on all of the above alternatives, we also invite comments on any other alternatives. The preliminary views expressed in this notice may change in light of the comments received.

It has been determined that this is not a significant regulatory action for purposes of Executive Order 12866.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

Authority: 5 U.S.C. 301; 31 U.S.C. 3102 *et seq.*; 12 U.S.C. 391.

Dated: July 19, 2001.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 01–18441 Filed 7–23–01; 11:30 am]

BILLING CODE 4810–39–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2001–3; Order No. 1319]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Request for comments on expired rules.

SUMMARY: Several Commission rules on expedited consideration of Postal Service requests for recommended decisions have expired. The Commission seeks comments on whether these rules should be re-issued. After evaluation of the comments, the Commission anticipates issuing a notice of proposed rulemaking addressing the expired rules.

DATES: Comments are due by August 21, 2001.

ADDRESSES: Send comments to Steven W. Williams, Acting Secretary, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820.

SUPPLEMENTARY INFORMATION: In two unrelated rulemakings, the Commission amended its rules of practice, 39 CFR 3001.1 *et seq.,* to provide for expedited consideration of certain Postal Service requests for a recommended decision. The first, adopted in 1989, concerned changes in Express Mail rates and fees. The second, adopted in 1996, entailed four rules designed to address certain types of classification changes. These five rules contain a common thread; each includes a five-year sunset provision; each of these rules has now expired.

By this notice, the Commission solicits comments from interested persons concerning the advisability of reissuing some or all of these rules. The rules are briefly described below.[1]

1. Market Response Rate Requests for Express Mail Service

Rules 57 through 57c govern Postal Service requests for an expedited recommended decision on changes in Express Mail rates and fees. These rules were adopted in response to a Postal Service petition requesting the Commission to initiate a rulemaking to implement special rules designed to consider changes in Express Mail rates prompted by changes in market conditions. See order no. 836, docket no. RM88–2, August 10, 1989. The rules provide for a compressed procedural schedule under which the Commission is to consider the Postal Service's market rate request within 90 days of its filing. Rule 57c; see also rule 57b(e)(5). As adopted, the rules were designed, consistent with due process, to expedite consideration of proposed changes in Express Mail rates occasioned by market conditions for the purpose of minimizing the loss of Express Mail's contribution to institutional costs recommended in the most recent omnibus rate case. Rule 57(a). The rules included a sunset provision limiting their effectiveness for a period of five years from the date of their adoption by the Commission. Rule 57(b).

In August 1994, on or about the date the rules expired, the Postal Service requested the Commission to institute a rulemaking proceeding to reissue the rules. After notice and comment, the Commission reissued the rules, including the sunset provision. Order no. 1042, docket no. RM95–1, February 17, 2000. The reissued rules (57 through 57c) expired March 6, 2000.

The Postal Service never invoked these rules. Nor has it sought to have them reissued after their expiration in March 2000.

2. Limited Classification Changes

In April 1995, the Postal Service petitioned the Commission to initiate a rulemaking involving changes or additions to the Commission's procedural rules concerning limited rate and classification matters. The petition drew heavily on a report, ''Postal Ratemaking in a Time Change,'' issued by the Joint Task Force on Postal Ratemaking, June 1, 1992. In an advance notice of proposed rulemaking the Commission requested comments on the Postal Service's petition. 60 FR 22017, May 4, 1995. Following the receipt of comments by interested parties, the Commission issued a notice of proposed rulemaking in which it proposed specific amendments to its rules of practice designed to expedite consideration of certain limited classification-related changes requested by the Postal Service. Order no. 1084, docket no RM95–4, October 13, 1995. Thereafter, in a final rule issued, in May 1996, the Commission adopted three separate set of rules designed to

[1] The Commission is distributing the relevant rules with this order to the service list in the most recent omnibus rate case, docket no. R2000–1, as a convenience to those parties.

facilitate expedited review of Postal Service requests concerning market tests provisional service changes of limited duration, and minor classification changes. Order no. 1110, docket no. RM95–4, May 7, 1996. In addition, the Commission adopted a rule permitting the Postal Service to request use of multi-year test period for a new services. Id. at 19–22. Each of these rules included a five-year sunset provision. Each has expired.

A. Market Tests of Proposed Mail Classification Changes

Rules 161 through 166 govern requests by the Postal Service to permit market testing of a proposed service change to develop information necessary to support a permanent classification change. Among other things, these rules, which pertain exclusively to the Commission's determination to recommend for or against the market test, identify the data to be provided, e.g., such data as are necessary to fully inform the Commission and the parties of the nature and impact of the market test (rule 162); outline the procedures to be followed (rule 163); and provide a rule for decision under which the Commission has 90 days to consider the proposed market test (rule 164). Absent good cause, the Commission shall not recommend market tests of more than one-year duration. Rule 161(b).

The Postal Service invoked these rules once. In docket no. MC98–1, Mailing Online Service, the Postal Service sought to conduct a market test of a proposed mailing online service prior to its introduction as an experimental mail classification. The Commission approved the proposed market test. PRC Op. MC98–1, October 7, 1998. The Postal Service, however, encountered technical difficulties in its market test, and, as result, withdrew its proposal to conduct an expanded Mailing Online experiment. Subsequently, in November 1999, the Postal Service filed docket no. MC2000–2 to implement a nationwide Mailing Online experiment.

B. Provisional Service Changes of Limited Duration

Rules 171 through 176 govern requests for the establishment of a provisional service to supplement, but not alter, existing mail classifications and rates for a limited and fixed duration. The requirements of these rules are generally similar to those for market tests, e.g., identifying the data to be provided, the procedures to be followed, and the timetable for decision. See rules 172–74. Provisions service changes are limited to a duration of no more than two years, which, upon request, may be extended for an additional year if a Postal Service request to establish the provisional service as a permanent mail classification is pending before the Commission. See rule 171(a).

The Postal Service has employed these rules once. In docket no. MC97–5, the Postal Service requested a provisional classification and fee schedule for a packaging service under which mailers would bring items to selected post offices for packing prior to mailing as parcels. The Commission recommended the provisional service, albeit with modifications. PRC Op. MC97–5, March 31, 1998. The Governors have not acted on this recommended decision.

C. Minor Classification Cases

Rules 69 through 69c provide for expedited review of Postal Service requests for a recommended decision of minor mail classification changes. A change is considered minor if it: involves no change in an existing rate or fee, would impose no new eligibility requirements on a subclass or rate category, and would not significantly affect the institutional cost contribution of the affected subclass or rate category. These rules, while differing somewhat from those for the other expedited proceedings, do describe the data to be filed and the procedures to be followed. Rules 69a–69b. The rules prescribe a timetable for the Commission to decide whether to treat the request as a minor classification change. Rule 69b(f). In addition, the rules provide for a recommended decision no later than 120 days after the filing of the request. Rule 69c. The Postal Service has employed these rules once. In docket no. MC99–4, the Postal Service sought expedited review of its request for a classification change expanding the availability of Bulk Parcel Return Service (BPRS). An unopposed stipulation and agreement formed the basis of the Commission's recommended decision in that proceeding. PRC Op. MC99–4, August 19, 1999; see also Governors' Decision, Docket No. MC99–4, August 30, 1999.

D. Multi-Year Test Periods

Subpart K of the Commission's rules, rules 181 and 182, authorizes the Postal Service to request an extended test period (of up to five years) for the purposes of determining breakeven of a proposed new postal service. Rule 181. Among other things, the Postal Service must justify its request through testimony and other documentary support. Rule 182.

The Postal Service has never invoked the multi-year test period rules.

3. Request for Comments

The rules, which were initiated at the Postal Service's request, were designed to provide the Postal Service with procedural options to facilitate expedited consideration of certain proposals. The rules have been invoked sparingly or not at all. The question, therefore, arises whether the rules or some of them have sufficient value to warrant reissuing them. Consequently, as part of its review process, the Commission requests comments on which of these rules, if any, should be reissued. Comments are due no later than August 21, 2001. Following receipt of comments, the commission will, if warranted, issue a notice of proposed rulemaking to revise its rules of practice and procedure.

Ted P. Gerarden, director of the office of the consumer advocate, is designated to represent the interests of the general public in this docket. It is ordered:

1. Interested persons may submit comments by no later than April 21, 2001, on which of the foregoing rules, if any, should be reissued.

2. Ted P. Gerarden, director of the office of the consumer advocate, is designated to represent the interests of the general public in this docket.

3. The acting secretary shall cause this notice and order concerning the rules of practice to be published in the **Federal Register**.

By the Commission.

Dated: July 19, 2001.

Garry J. Sikora,

Acting Secretary.

[FR Doc. 01–18454 Filed 7–24–01; 8:45 am]

BILLING CODE 7715–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CAO–37–FIN; FRL–7017–3]

Clean Air Act Attainment Finding; Bullhead City and Payson Nonattainment Areas, Arizona; Sacramento and San Bernardino Nonattainment Areas, California; Particulate Matter of 10 Microns or Less (PM–10)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the Bullhead City and

Payson PM–10 nonattainment areas in Arizona and the Sacramento and San Bernardino PM–10 nonattainment areas in California have attained the National Ambient Air Quality Standard (NAAQS) for PM–10 by the applicable December 31, 2000 attainment date. This determination is based upon monitored air quality data for the PM–10 NAAQS during the years 1998–2000. This determination of attainment does not redesignate the Bullhead City, Payson, Sacramento and San Bernardino areas to attainment for PM–10. The Clean Air Act requires that, for an area to be redesignated, five criteria must be satisfied including the submitttal of a maintenance plan as a State Implementation Plan (SIP) revision.

DATES: Any comments on this proposal must arrive by August 24, 2001.

ADDRESSES: Mail comments to Eleanor Kaplan, Air Planning Office (AIR–2), Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Eleanor Kaplan, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 744–1159 or kaplan.eleanor@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'', or ''our'' are used, we mean the Environmental Protection Agency (EPA).

Table of Contents

I. Background
A. What National Ambient Air Quality Standards (NAAQS) are considered in today's proposed finding?
B. What is the designation and classification of these PM–10 nonattainment areas?
C. How do we make attainment determinations?
II. Basis for EPA's Proposed Action
A. What is the history behind this proposed action?
B. How did we determine that these areas attained the PM–10 NAAQS?
III. EPA's Proposed Action
A. Determination that the following nonattainment PM–10 areas have attained the PM–10, NAAQS as of December 31, 2000.
1. Bullhead City
2. Payson
3. Sacramento
4. San Bernardino
IV. Administrative Requirements

I. Background

A. What National Ambient Air Quality Standards (NAAQS) Are Considered in Today's Proposed Finding?

Particulate matter with an aerodynamic diameter of less than 10 micrometers (PM–10) is the pollutant that is the subject of this action. The NAAQS are safety thresholds for certain ambient air pollutants set by EPA to protect public health and welfare. PM–10 is among the ambient air pollutants for which EPA has established a health-based standard.

PM–10 causes adverse health effects by penetrating deep in the lung, aggravating the cardiopulmonary system. Children, the elderly, and people with asthma and heart conditions are the most vulnerable.

On July 1, 1987 (52 FR 24634), EPA revised the NAAQS for particulate matter with an indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. (See 40 CFR 50.6).

The 24-hour primary PM–10 standard is 150 micrograms per cubic meter (μg/m^3) with no more than one expected exceedance per year. The annual primary PM–10 standard is 50 μg/m^3 as an annual arithmetic mean. The secondary PM–10 standards, promulgated to protect against adverse welfare effects, are identical to the primary standards.

B. What Is the Designation and Classification of These PM–10 Nonattainment Areas?

Upon enactment of the 1990 Clean Air Act Amendments (Act), PM–10 areas meeting the requirements of either (i) or (ii) of section 107(d)(4)(B) of the Act were designated nonattainment for PM–10 by operation of law and classified ''moderate''. See generally, 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM–10 planning areas identified in 52 FR 29383 (August 7, 1987) and further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the NAAQS for PM–10 prior to January 1, 1989 (many of these areas were identified by footnote 4 in the October 31, 1990 **Federal Register** document). A **Federal Register** notice announcing the areas designated nonattainment for PM–10 upon enactment of the 1990 Amendments, known as ''initial'' PM–10 nonattainment areas, was published on March 15, 1991 (56 FR 11101). A subsequent **Federal Register** document correcting some of these areas was published on August 8, 1991 (56 FR 37654). These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a **Federal Register** document published on November 6, 1991 (56 FR 56694). All other areas in the nation not designated nonattainment at enactment were designated unclassifiable (see section 107(d)(4)(B)(iii) of the Act).

In January and February of 1991, we notified the Governors of those States which recorded violations of the PM–10 standard after January 1, 1989 that EPA believed that those areas should be redesignated as nonattainment for PM–10. In September 1992 we proposed that several areas be redesignated nonattainment for PM–10 and took final action on December 21, 1993 (58 FR 67335). Bullhead City and Payson in Arizona and Sacramento and San Bernardino in California were among those areas listed. The effective date of the final action redesignating these areas as nonattainment for the PM–10 NAAQS was January 20, 1994. However the current Code of Federal Regulations (CFR), 40 CFR 81.303, gives an incorrect date, namely January 20, 1990, for the designation of Bullhead City to nonattainment. We are therefore in this proposal correcting the § 81.303 so that the date of Bullhead City's designation to nonattainment is January 20, 1994. Under section 188(c)(1) of the Act, the applicable attainment date is to be no later than the sixth calendar year after the area's designation as a moderate nonattainment area for the PM–10 NAAQS. Given that the effective date occurred in 1994, the applicable attainment date for these areas is no later than December 31, 2000.

C. How Do We Make Attainment Determinations?

Pursuant to sections 179(c) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, the PM–10 nonattainment areas attained the NAAQS by that date. Determinations under section 179(c)(1) of the Act are to be based upon an area's '''air quality as of the attainment date''. Section 188(b)(2) is consistent with this requirement.

Generally, we will determine whether an area's air quality is meeting the PM–10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring sites (NAMS) in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (see 40 CFR 50.6, 40 CFR part 50 appendix J, 40 CFR part 53, 40 CFR part 58, appendices A & B) and may be used to determine the attainment status of areas. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring

requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM–10 standard is achieved when the annual arithmetic mean PM–10 concentration over a three year period (for example, 1998, 1999, and 2000 for areas with a December 31, 2000 attainment date) is equal to or less than 50 μg/m^3. Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM–10 concentrations greater than 150 μg/m^3. The 24-hour standard is attained when the expected number of days with levels above 150 μg/m^3 (averaged over a three year period) is less than or equal to one. Three consecutive years of air quality data are generally necessary to show attainment of the 24-hour and annual standard for PM–10. See 40 CFR part 50 and appendix K. A complete year of air quality data, as referred to in 40 CFR part 50, appendix K, is comprised of all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

II. Basis for EPA's Proposed Action

A. What Is the History Behind This Proposed Action?

As moderate PM–10 nonattainment areas that were redesignated as such effective in 1994, Bullhead City, Payson, Sacramento and San Bernardino were required by CAA section 188 to attain the PM–10 NAAQS by December 31, 2000. As noted above, section 188 of the CAA requires EPA to determine whether such moderate areas have attained the NAAQS within six months of the attainment date.

B. How Did We Determine That These Areas Attained the PM–10 NAAQS?

1. Bullhead City

The Bullhead City PM–10 nonattainment area is located in northwestern Arizona in Mohave County. It encompasses 200 square miles and extends across mostly desert terrain interrupted by mesas and mountains. Bullhead City itself is a rapidly growing urbanized area of 43 square miles. The Colorado River and the Nevada/Arizona border form the western boundary of the nonattainment area.

Bullhead City's primary economic activities are tourism, the hydroelectric facility at Davis Dam, and the Mohave Generating Station, a coal-fired power plant on the Nevada side of the Colorado River. Bullhead City also provides housing for employees working at casinos in nearby Laughlin, Nevada. The annual average temperature is 85 degrees F and temperatures can reach 125 degrees F in the summer. Average rainfall is about 4 inches.

a. Air Quality Data

Bullhead City has one SLAMS monitor operated by the Arizona Department of Environmental Quality (ADEQ). The following table summarizes the one-in-six day PM–10 data collected from 1998—2000. We deemed the data from this site valid and the data has been submitted by the ADEQ to be included in AIRS.

SUMMARY OF 24 HOUR AND ANNUAL PM–10 CONCENTRATIONS (μG/M^3) BULLHEAD CITY 1998–2000

	Year		
	1998*	1999	2000
Maximum 24 hour concentration	27	27	42
Annual average	10	13	15
3-year annual average	.....	13	.....

*PM–10 Concentrations in 1998 were reported to EPA under actual (or local) temperature and pressure conditions (LTP). The PM–10 NAAQS requires data to be adjusted to standard temperature and pressure (STP). When we revised the PM–10 NAAQS in 1997, we changed the method of calculating the concentration from STP to LTP. Arizona correctly switched the way it reported PM–10 data. When the 1997 PM–10 NAAQS was rescinded, States were to correct the data reported in 1998 from LTP to STP in order to be in compliance with the original PM–10 NAAQS which was now back in effect. Arizona has not completed the data revision at this time. The difference in the values reported as LTP or STP in this case is minor. If the 1998 data were revised we would expect the 24 hour values reported to increase by no more than 3–5 μg/m3. Because the data from Bullhead City is so low we do not believe the adjustment would affect our conclusion that the area has attained both the 24 hour and annual PM–10 NAAQS.

b. Determination That the Bullhead City PM–10 Nonattainment Area Attained the PM–10 NAAQS as of December 31, 2000

The PM–10 concentrations reported at the Bullhead City monitoring site showed no measured exceedance of the 24-hour PM–10 NAAQS between 1998 and 2000. Thus, the three-year average was less than 1.0, which indicates Bullhead City attained the 24-hour PM–10 NAAQS as of December 31, 2000.

Review of the annual standard for calendar years 1998, 1999 and 2000 reveals that Bullhead City also attained the annual PM–10 NAAQS by December 31, 2000. There was no violation of the annual standard for the three-year period from 1998 through 2000.

2. Payson

Payson, at an elevation of 4,848 feet, is located in northeast Arizona and has a population of approximately 8,000. Major economic activities in the area are the lumber industry and recreation. Sources of PM–10 emissions in Payson include wood smoke, unpaved roads, paved roads and other industrial/miscellaneous sources.

a. Air Quality Data

The ADEQ operates a single SLAMS monitor in the Payson area. We deemed the data from this site valid and the data was submitted by Arizona to be included in AIRS.

The following table summarizes the one-in-six day PM–10 data collected from 1998 through 2000.

SUMMARY OF 24 HOUR AND ANNUAL PM–10 CONCENTRATIONS (μG/M^3) PAYSON 1998–2000

	Year		
	1998*	1999	2000
Maximum 24 hour concentration	69	52	88
Annual average	24	29	24

SUMMARY OF 24 HOUR AND ANNUAL PM–10 CONCENTRATIONS (μG/M3) PAYSON 1998–2000—Continued

	Year		
	1998*	1999	2000
3-year annual average	.....	26	.....

*PM–10 Concentrations in 1998 were reported to EPA under actual (or local) temperature and pressure conditions (LTP). The PM–10 NAAQS requires data to be adjusted to standard temperature and pressure (STP). When EPA revised the PM–10 NAAQS in 1997, we changed the method of calculating the concentration from STP to LTP. Arizona correctly switched the way it reported PM–10 data. When the 1997 PM–10 NAAQS was rescinded, States were to correct the data reported in 1998 from LTP to STP in order to be in compliance with the original PM–10 NAAQS which was now back in effect. Arizona has not completed the data revision at this time. The difference in the values reported as LTP or STP in this case is minor. If the 1998 data were revised we would expect the 24 hour values reported to increase by no more than 3–5 μg/m3. Because the data from Payson is far enough below the NAAQS we do not believe the adjustment would affect our conclusion that the area has attained both the 24 hour and annual PM–10 NAAQS.

b. Determination That the Payson PM–10 Nonattainment Area Attained the PM–10 NAAQS as of December 31, 2000

The PM–10 concentrations reported at the Payson monitoring site showed no measured exceedances of the 24-hour PM–10 NAAQS between 1998 and 2000, which indicates Payson attained the 24-hour PM–10 NAAQS as of December 31, 2000.

Review of the annual standard for calendar years 1998, 1999 and 2000 reveals that Payson also attained the annual PM–10 NAAQS by December 31, 2000. The monitoring site showed no violation of the annual standard in the three-year period from 1998 through 2000.

3. San Bernardino

The San Bernardino PM–10 nonattainment area that is the subject of this action includes the entire county excluding that portion of the county that is located in the Searles Valley Planning area,[1] and excluding that portion of the county that is located in the South Coast Air Basin.[2] The nonattainment area covers over 18,000 square miles, but includes only about 315,000 persons. The area is relatively rural with only a few densely populated centers of urban development, all of which are located in the southwest portion and contain 97 percent of the population. San Bernardino also contains two military bases, Twenty-Nine Palms and Fort Irwin National Training Center. The climate of the area is characteristic of a desert environment. Two mountain ranges block the desert from the cool moist coast air of the South Coast Air Basin. The region generally experiences hot dry summers and mild winters with very little annual rainfall.

Major PM–10 emissions sources in the past included city and county unpaved road travel, vehicle activity on Bureau of Land Management land, construction, paved road dust entrainment and windblown fugitive dust from disturbed areas.

a. Air Quality Data

The Mojave Desert Air Quality Management District, which has jurisdiction over the San Bernardino PM–10 nonattainment area, maintains five PM–10 monitoring stations which are located in the population centers. PM–10 monitoring is also ongoing at Fort Irwin and Twenty-nine Palms. We deemed the data from these sites valid and the data was submitted by California to be included in AIRS.

The following table summarizes the one-in-six day PM–10 data collected since 1998–2000.

SUMMARY OF PM–10 AIR QUALITY SAN BERNARDINO COUNTY 1998–2000

Site	Highest 24 hour concentration (*μ/m3)			Annual average (*μ/m3)	3-year annual average (*μ/m3)		
	1998	1999	2000		1998	1999	2000
Barstow	53	69	69	23	26	28	26
Lucerne Valley	39	95	58	19	20	23	21
Victorville	70	78	52	28	30	26	28
Twenty-nine Palms	30	105	62	16	22	21	20
Hesperia	70	109	80	26	32	34	31

b. Determination That the San Bernardino PM–10 Nonattainment Area Attained the PM–10 NAAQS as of December 31, 2000

The PM–10 concentrations reported at the five different monitoring sites showed no measured exceedances of the 24-hour PM–10 NAAQS between 1998 and 2000, which indicates San Bernardino attained the 24-hour PM–10 NAAQS as of December 31, 2000.

Review of the annual standard for calendar years 1998–2000 reveals that San Bernardino also attained the annual PM–10 NAAQS by December 31, 2000. No monitoring sites showed a violation of the annual standard in the three-year period from 1998 through 2000.

4. Sacramento

The Sacramento PM–10 nonattainment area comprises the entire county of Sacramento. The County is approximately 995 square miles and is located in the northern portion of the Central Valley of California. The area has experienced tremendous growth in population over the past twenty years. The major economic activity in the area is government services and retail trade, along with significant agricultural, industrial and construction industries.

[1] We have recently proposed to split the San Bernardino County portion of the Searles Valley planning area nonattainment area into its own nonattainment area (i.e., the Trona subregion) and to find that the Trona subregion has attained the standard (66 FR 31873, June 13, 2001.

[2] The portion of San Bernardino County that is located within the South Coast Air Basin is part of a PM–10 nonattainment area that is classified as ''serious.''

a. Air Quality Data

The Sacramento Metropolitan Air Quality Management District, which has jurisdiction over the Sacramento PM–10 nonattainment area, maintains five PM–10 monitoring stations which are located in the Sacramento metropolitan area. The following table summarizes the one-in-six day PM–10 data collected from 1998–2000.

SUMMARY OF PM–10 AIR QUALITY SACRAMENTO COUNTY 1998–2000

Site	Highest 24 hour concentration (*μ/m 3)			Annual average (*μ/m 3)	3-year annual average (*μ/m 3)		
	1998	1999	2000		1998	1999	2000
North Highlands	73	73	82	22	26	23	24
Del Paso	104	141	58	22	27	21	23
Sacramento—Health Center	79	88	86	23	25	31	26
Sacramento—Branch Center Rd.	86	86	56	27	33	27	29
Sacramento—T Street	75	99	64	23	29	25	26

b. Determination That the Sacramento PM–10 Nonattainment Area Attained the PM–10 NAAQS as of December 31, 2000

The PM–10 concentrations reported at the five different monitoring sites showed no measured exceedances of the 24-hour PM–10 NAAQS between 1998 and 2000, which indicates Sacramento attained the 24-hour PM–10 NAAQS as of December 31, 2000.

Review of the annual standard for calendar years 1998–2000 reveals that Sacramento also attained the annual PM–10 NAAQS by December 31, 2000. No monitoring sites showed a violation of the annual standard in the three-year period from 1998 through 2000.

III. EPA'S Proposed Action

Based on quality-assured data meeting the requirements of 40 CFR part 50, Appendix K, we propose to find that the Bullhead City and Payson nonattainment areas in Arizona and the Sacramento and San Bernardino nonattainment areas in California have attained the PM–10 NAAQS by their applicable attainment date of December 31, 2000. Consistent with CAA section 188, the areas will remain moderate PM–10 nonattainment areas and avoid the additional planning requirements that apply to serious PM–10 nonattainment areas.

This proposed action should not be confused with a redesignation to attainment under CAA section 107(d)(3) because we have not yet approved a maintenance plan as required under section 175(A) of the CAA or determined that the areas have met the other CAA requirements for redesignation. The designation status in 40 CFR part 81 will remain moderate nonattainment for all these areas until such time as Arizona and California meet the CAA requirements for redesignations to attainment.

IV. Administrative Requirements

A. General 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. For this reason, this proposed action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely makes a determination based on air quality data and does not impose any requirements. 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 proposed rule does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This 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 makes a determination based on air quality data 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.

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 81

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

Dated: July 16, 2001.

Jane Diamond,

Acting Regional Administrator, Region 9.

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

PART 81—[AMENDED]

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

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

Subpart D—Arizona

2. In § 81.303, the table for Arizona-PM–10 is amended by revising the entry for Mohave County (part) to read as follows:

§ 81.303 Arizona.

* * * * *

ARIZONA—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * * * * * *				
Mohave County (part):				
Bullhead City: T21N, R20–21W, excluding Lake Mead National Recreation Area: T20N, R20–22W; T19N, R21–22W excluding Fort Mohave Indian Reservation.	January 20, 1994.	Nonattainment.	January 20, 1994.	Moderate.
* * * * * * *				

* * * * *

[FR Doc. 01–18536 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–7017–9]

Clean Air Act Reclassification and Notice of Potential Eligibility for Extension of Attainment Date, Louisiana; Baton Rouge Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposed rule.

SUMMARY: On May 9, 2001 (66 FR 23646), EPA proposed to find that the Baton Rouge serious ozone nonattainment area (hereinafter referred to as the Baton Rouge area) had failed to attain the one-hour National Ambient Air Quality Standard (NAAQS) for ozone by November 15, 1999, the date set forth in the federal Clean Air Act (CAA or Act) for serious nonattainment areas. Alternatively, in the same action, EPA also issued a notice of the Baton Rouge area's potential eligibility for an attainment date extension pursuant to EPA's ''Guidance on Extension of Attainment Dates for Downwind Transport Areas'' (Richard D. Wilson, Acting Assistant Administrator for Air and Radiation) issued July 16, 1998, 64 FR 14441 (March 25, 1999) (hereinafter referred to as the ''extension policy''). The extension policy provides that a nonattainment area, such as the Baton Rouge area, may be eligible for an attainment date extension if it meets certain conditions.

In the May 9, 2001, proposed rule, EPA indicated that, if Louisiana made a submittal in response to the extension policy by August 31, 2001, EPA would address the adequacy of the submittal in a subsequent supplemental proposal. If the submittal met the criteria for an extension, EPA stated that the attainment date for the Baton Rouge area would be extended, and the area would not be reclassified. This proposed rule supplements the proposed rule published on May 9, 2001, for the Baton Rouge area. In today's action, EPA is proposing to extend the submittal deadline from August 31, 2001, to December 31, 2001.

DATES: Comments must be received on or before August 24, 2001.

ADDRESSES: All comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Copies of the comment letters referenced in this supplemental proposed rule, and other relevant materials, are contained in the docket file, which is available at the following addresses for inspection during normal business hours: U.S. Environmental Protection Agency Region 6, Air Planning Section, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202; Louisiana Department of Environmental Quality (LDEQ), 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810. Please contact the appropriate office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne Schulze, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7254, e-mail address: schulze.jeanne@epa.gov.

SUPPLEMENTARY INFORMATION: The use of ''we,'' ''us,'' or ''our'' in this document refers to EPA.

Table of Contents

I. What action are we taking today?
II. Why are we proposing to extend the submittal date?
III. What is the status of the State's efforts to submit the SIP pursuant to the extension policy?
IV. When will we make a final decision whether to reclassify or grant an attainment date extension to the Baton Rouge area?
V. Administrative Requirements

I. What Action Are We Taking Today?

We are proposing to extend the deadline, from August 31, 2001, to December 31, 2001, for Louisiana to submit a State Implementation Plan (SIP) that qualifies for an extension pursuant to EPA's extension policy. In our May 9, 2001, proposed rulemaking, we based the August 31, 2001, submission deadline on a letter from the Governor of Louisiana to EPA, dated May 10, 2000, committing to submit, by that date, a SIP that meets the criteria of the extension policy.

In today's proposal, EPA specifically requests comments on a revised submission date of December 31, 2001. EPA has previously received comments on other aspects of its May 9, 2001, proposal, and will address those comments in its final action on the SIP submittal and attainment date extension. EPA is not reopening or requesting comment on any other aspect of the May 9, 2001, proposal.

II. Why Are We Proposing To Extend the Submittal Date?

In response to our May 9, 2001, proposed rulemaking, the Governor of Louisiana submitted a letter to EPA, dated June 7, 2001, requesting until December 31, 2001, to submit the transport extension SIP. To support the request for additional time, the Governor's letter references a June 1, 2001, comment letter submitted to EPA by Dale Givens, Secretary of the LDEQ. In his letter, Secretary Givens provides an extensive list of critical factors that

have changed or were added to the SIP development process, thereby necessitating a change in the submittal date committed to by the Governor in his May 10, 2000, letter to EPA.

Secretary Givens' comment letter also clarifies that the Governor's August 31, 2001, commitment date was not driven by statute, rule, policy or any other legal requirement, but, rather, was selected based on discussions with EPA. This date was mutually determined by EPA and LDEQ to be, at the time, the most expeditious schedule practicable to prepare what was expected to be a relatively simple revision to the current attainment demonstration SIP.[1] The assumption at the time—based on the area's official design value, which was just a few parts per billion above the NAAQS—was that only a small additional reduction in ozone precursor emissions in the five-parish Baton Rouge ozone nonattainment area would be necessary to attain the one-hour ozone standard.

The factors Secretary Givens cites as a basis for extending the submittal date include the following:

—The geographic area from which emission reductions are being considered for the attainment demonstration has expanded from the five-parish Baton Rouge nonattainment area to a total of twelve parishes, necessitating new detailed emission inventories and additional sensitivity and control strategy modeling runs.

—The number of urban airshed modeling episodes increased from two to three episodes (each representing a different meteorological and pollutant transport regime) in order to ensure a more successful control strategy. Running each sensitivity/control strategy run three times has significantly increased the time and cost of the modeling effort.

—Required nitrogen oxide (NO_X) reductions are significantly greater than expected. Modeling conducted to date indicates that NO_X reductions of approximately 35% may be needed in the 12-parish control region in order to demonstrate attainment. Approximately 74 individual facilities with 409 NO_X emission sources could be affected. The sources include categories of combustion equipment such as boilers, heaters, furnaces, turbines and internal combustion engines. Many of these sources are currently operating without any level of NO_X control. LDEQ anticipates that the NO_X controls required by the transport extension SIP could go well beyond the level of control required of states in the NO_X SIP Call Region.[2]

—The August 31, 2001, commitment date did not anticipate the proliferation of proposed merchant power plants. LDEQ has considered in its modeling analyses emissions increases from 20 proposed merchant power plants representing over 14,000 tons per year of NO_X emissions. (These estimates are based on air permit applications received by LDEQ.) Since the status of these plants changes weekly, it has made the attainment planning process even more difficult.

—The LDEQ is also in the process of revising its emission reduction credit (ERC) banking regulations to conform with EPA's ''surplus when used'' policy. In conjunction with the rule revisions, LDEQ is nearing completion of a review of ERCs applied for and on deposit in the bank to ensure that the proper adjusted amount of ERCs is modeled as emissions ''in the air.''

EPA believes that the State has made a compelling argument that the SIP development process has been as expeditious as practicable and that an extension until December 31, 2001, is warranted in order to develop a technically defensible and approvable submittal.[3]

III. What Is the Status of the State's Efforts To Submit the SIP Pursuant to the Extension Policy?

As stated in our May 9, 2001, proposed rulemaking, a local task force comprised of stakeholders has been working closely with the LDEQ to develop a submittal that meets the requirements of the extension policy.[4] Modeling efforts are nearing completion, and the State has begun the rulemaking process for several of the underlying regulations. All required rules are expected to be proposed by August 2001. The LDEQ plans to propose the entire SIP for public comment in October 2001.[5]

IV. When Will We Make a Final Decision Whether To Reclassify or Grant an Attainment Date Extension to the Baton Rouge Area?

As discussed in our May 9, 2001, proposed rule, we do not intend to take final action on the reclassification prior to allowing Louisiana an opportunity to qualify for an attainment date extension under the extension policy.

Therefore, if Louisiana submits, by December 31, 2001, a SIP that qualifies for an extension pursuant to the extension policy, we will propose to approve the State's submittal. In the same notice, we will propose to extend the attainment date for the Baton Rouge area to an appropriate expeditious date.

We will take final action on the new attainment date at the time we take final action on the submittal. If we act to approve the attainment demonstration and extend the attainment date, the Baton Rouge area would no longer be subject to reclassification or ''bump-up'' for failure to attain by its original attainment date under section 181(b)(2) of the CAA.[6] However, if Louisiana fails submit, by December 31, 2001, a plan that meets the requirements of the extension policy, we will finalize our May 9, 2001, proposed finding of failure to attain, and the Baton Rouge area will be reclassified to severe ozone nonattainment.

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. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply,

[1] On July 2, 1999 (64 FR 35930), EPA issued a final approval of Louisiana's one-hour ozone attainment demonstration for the five-parish Baton Rouge ozone nonattainment area.

[2] Through a two-year effort known as the Ozone Transport Assessment Group (OTAG), the EPA worked in partnership with the 37 easternmost states and the District of Columbia, industry representatives, academia, and environmental groups to develop recommended strategies to address transport of ozone-forming pollutants across state boundaries.

On October 27, 1998 (63 FR 57356), EPA took final action on the OTAG's recommendations by issuing the NO_X SIP call, requiring 22 states and the District of Columbia to submit SIPs addressing the regional transport of ozone. These SIPs will decrease the transport of ozone across state boundaries in the eastern half of the United States by reducing emissions of nitrogen oxides (a precursor to ozone formation). The EPA expects the final NO_X SIP call will assist many areas in attaining the one-hour ozone standard. Louisiana was a member of the OTAG but was not included in the NO_X SIP call.

[3] It should be noted that, of the 16 entities submitting comments on EPA's May 9, 2001, proposed rulemaking, twelve expressly support an extension of the August 31, 2001, submittal deadline.

[4] The specific criteria that Louisiana's plan will have to meet in order for EPA to consider extending the Baton Rouge area attainment date under the extension policy are outlined in the May 9, 2001, proposed rulemaking (p. 23650).

[5] LDEQ's schedule for rulemaking on the various components of the SIP can be found in the docket for this proposed rulemaking.

[6] Section 181(b)(2) of the Act explains the process for determining whether an area has attained the one-hour ozone NAAQS and, if appropriate, reclassification by operation of law.

Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This 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. The proposed rule does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). 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. The 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.'' 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 81

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

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

Dated: July 16, 2001.

Carl E. Edlund,

Acting Regional Administrator, Region 6.

[FR Doc. 01–18534 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7016–8]

National Oil and Hazardous Substance Pollution Contingency Plan, National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Sheller-Globe Corporation Disposal Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 7 is issuing a notice of intent to delete the Sheller-Globe Corporation Disposal Superfund Site (Site) located near Keokuk, Iowa, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the state of Iowa, through the Iowa Department of Natural Resources, have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final notice of deletion of Sheller-Globe Corporation Disposal Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by August 24, 2001.

ADDRESSES: Written comments should be addressed to: Diane Huffman, Community Involvement Coordinator, U.S. EPA Region 7, 901 N. 5th Street, Kansas City, Kansas 66101 or at (913) 551–7003 or toll free at 1–800–223–0425.

FOR FURTHER INFORMATION CONTACT: James Colbert, Remedial Project Manager, U.S. EPA Region 7, 901 N. 5th Street, Kansas City, Kansas 66101 or at (913) 551–7489 or toll free at 1–800–223–0425.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. EPA Region 7 Records Center, 901 N. 5th Street, Kansas City, Kansas 66101 or the Keokuk Public Library, 210 N. 5th Street, Keokuk, Iowa 52632.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping

requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: July 12, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 01–18317 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 96–98; DA 01–1648]

Update and Refresh Record on Rules Adopted in 1996 Local Competition Docket

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document invites parties to update and refresh the record on issues pertaining to the rules the Commission adopted in the First Report and Order in CC Docket No. 96–98, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996.*

DATES: Comments are due August 24, 2001 and reply comments are due September 10, 2001.

FOR FURTHER INFORMATION CONTACT: Jonathan Reel, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document regarding CC Docket No. 96–98, released on July 11, 2001. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY—B400, 445 12th Street, S.W., Washington, DC. It is also available on the Commission's website at *http://www.fcc.gov.*

Synopsis

1. On August 8, 1996, the Commission released the *Local Competition First Report and Order* (61 FR 45476) as required by the Telecommunications Act of 1996. Many of the parties filed petitions for reconsideration of that Order and there has been significant litigation concerning many of the rules adopted in that Order. At this time, only certain rules concerning combination and pricing of unbundled network elements remain in dispute. Now that the issues in dispute have narrowed, the Commission will address petitions for reconsideration relating to rules that are not the subject of pending litigation. Since many of these petitions were filed several years ago, the passage of time and intervening developments may have rendered the record developed by those petitions stale. Moreover, some issues raised in petition for reconsideration may have become moot or irrelevant in light of intervening events.

2. For these reasons, the Commission requests that parties that filed petitions for reconsideration in 1996 addressing issues that are not subject to pending litigation now file a supplemental notice indicating which of such issues they still wish to be reconsidered. In addition, parties may refresh the record with any new information or arguments they believe to be relevant to deciding such issues. To the extent parties do not indicate an intent to pursue their respective petitions for reconsideration, the petitions will be deemed withdrawn and will be dismissed. The refreshed record will enable the Commission to undertake appropriate reconsideration of its local competition rules.

List of Subjects in 47 CFR Part 51

Communications common carriers, Interconnection.

Federal Communications Commission.

Michelle M. Carey,

Chief, Policy and Program Planning Division, Common Carrier Bureau.

[FR Doc. 01–18516 Filed 7–24–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Yellow-billed Cuckoo (*Coccyzus americanus*) in the Western Continental United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding for a petition to list the yellow-billed cuckoo (*Coccyzus americanus*) in the western continental United States under the Endangered Species Act of 1973, as amended (Act). We find that the petitioned action is warranted, but precluded by higher priority listing actions. We will develop a proposed rule to list this population pursuant to our Listing Priority Guidance. Upon publication of this notice of 12-month petition finding, this species will be added to our candidate species list.

DATES: The finding announced in this document was made on July 18, 2001. Comments and information may be submitted until further notice.

ADDRESSES: You may submit data, information, comments, or questions concerning this finding to the Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room 2605, Sacramento, California 95825. You may inspect the petition, administrative finding, supporting information, and comments received, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Stephanie Brady, Fish and Wildlife Biologist, at the above address, by telephone at 916/414–6600, facsimile at 916/414–6613, or electronic mail at stephanie_brady@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the List of Threatened and Endangered Species containing substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned actions is: (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other higher priority efforts to revise the List of Threatened and Endangered Species. Section 4(b)(3)(C) requires that petitions for which requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months. Such 12-month findings are to be published promptly in the **Federal Register**.

Section 4(b) of the Act states that we may make warranted but precluded findings only if we can demonstrate that: (1) An immediate proposed rule is precluded by other pending actions, and (2) expeditious progress is being made on other listing actions. Due to the large

amount of litigation over critical habitat, we are working on numerous court orders and settlement agreements. Complying with these orders and settlement agreements will consume nearly all or all of our listing budget for fiscal year 2001. Any funding we may have available for discretionary listing actions will likely be allocated for emergency listings only. However, we can continue to place species on the candidate species list, as that work activity is funded separately from our listing program.

On February 9, 1998, we received a petition, dated February 2, 1998, from Robin Silver, Kieran Suckling, and David Noah Greenwald of the Southwest Center for Biological Diversity on behalf of 22 groups to list the western yellow-billed cuckoo (*Coccyzus americanus occidentalis*). The 22 groups are the Maricopa Audubon Society, Tucson Audubon Society, Huachuca Audubon Society, White Mountain Audubon Society, the White Mountain Conservation League, Wildlife Damage Review, Sky Island Alliance, the San Pedro 100, the Zane Grey Chapter of Trout Unlimited, T & E Inc., the Biodiversity Legal Foundation, the Environmental Protection Information Center, the Sierra Nevada Alliance, the Wetlands Action Network, Rangewatch, the Oregon Natural Desert Association, the Oregon Natural Resources Center, the Klamath-Siskiyou Wildlands Center, the Southern Utah Wilderness Alliance, the Wild Utah Forest Campaign, Friends of Nevada Wilderness, and the Toiyabe Chapter of the Sierra Club. The petitioners stated that they believe the yellow-billed cuckoo ''is endangered in a significant portion of its range (i.e., the western United States).'' The petitioners also stated they ''believe this range of endangerment is coterminous with a valid subspecies, the western yellow-billed cuckoo (*Coccyzus americanus occidentalis*),'' and that they would concur with a decision to list this taxon. Petitioners also requested that critical habitat be designated for the yellow-billed cuckoo concurrent with the listing, pursuant to 50 CFR 424.12 and the Administrative Procedures Act (5 U.S.C. 553). Included in the petition was supporting information on the species relating to taxonomy, ecology, adequacy of existing regulatory mechanisms, historic and present distribution, current status, and threats in the western United States.

On February 17, 2000, we announced a 90-day petition finding in the **Federal Register** (65 FR 8104) concluding that the petition presented substantial scientific or commercial information to indicate that the listing of the western yellow-billed cuckoo may be warranted. In that finding, we also found that the petition did not present sufficient information to indicate that listing of the species as a whole may be warranted. In addition, the finding stated that the petition presented substantial information that led us to conclude that further investigation, through a status review, was required to determine the taxonomic validity of the western subspecies, and to determine if listing the western yellow-billed cuckoo as a distinct population segment (DPS) may be warranted.

Taxonomy

Ridgway (1887) separated the yellow-billed cuckoo into eastern and western subspecies, based on western birds being ''larger, with proportionately larger and stouter bill''. Wetmore (1968) added that western birds are slightly more gray above, and eastern birds more brown. Ridgway assigned birds from the area north and west from extreme west Texas to the Pacific Coast to the subspecies *Coccyzus americanus occidentalis,* and other cuckoos in North America to *Coccyzus americanus americanus.* Ridgway's western subspecies included birds from the Great Basin portions of Colorado and Wyoming, west and north to the Pacific Coast and southwestern British Columbia. The two subspecies were generally included in ornithological treatments through the 1960s (e.g., American Ornithologists Union (AOU) 1957; Oberholser and Kincaid 1974).

Many ornithologists, however, have questioned the separation of the species into two subspecies (Bent 1940; Monson and Phillips 1981; Van Tyne and Sutton 1937; Swarth 1929; Todd and Carriker 1922), citing the small magnitude and inconsistency of differences between eastern and western yellow-billed cuckoos, and the broad overlap in the size of eastern and western individuals. During this time, though, there was no systematic analysis of geographic variation to determine if there was an eastern and western yellow-billed cuckoo subspecies. Since 1983, AOU checklists (the recognized authority for taxonomy of North American birds) have not used subspecies names for any of the bird species in the checklist since the validity of many described avian subspecies needs to be evaluated, as does the potential for unrecognized subspecies (AOU 1983, 1998). The most recent checklist (AOU 1998) refers readers to the 1957 checklist for subspecies taxonomy, while noting the questionable validity of many subspecies. The AOU Checklist Committee (which makes taxonomic decisions for North American birds) has begun the process of reviewing the taxonomic status of subspecies for the North American families of birds, a task which is expected to take at least several years (R. Banks, chair of AOU Classification and Nomenclature Committee (North America), pers. comm., 1999).

Yellow-billed cuckoo taxonomy was first reviewed in the late 1980s, when we requested that Dr. Banks, an avian taxonomist, evaluate the validity of the cuckoo subspecies. This request was in response to the 1986 petition to list the yellow-billed cuckoo in the States of California, Washington, Oregon, Idaho, and Nevada. Banks compared three morphological characteristics (bill length, depth of upper mandible, and wing length) of almost 700 adult specimens of yellow-billed cuckoos and visually examined the colors of specimens. He found: (1) no pattern of geographic variation in color; (2) substantial overlap between eastern and western birds in wing length, bill length and mandible depth; and (3) no significant differences for these three characteristics. He concluded that the data did not justify the separation into eastern and western subspecies (Banks 1988). Subsequently, statistical errors were discovered in Bank's study (Spiller 1988), and a re-analysis of the same data indicated statistically significant differences between eastern and western yellow-billed cuckoos ($p<0.001$) for the three characteristics measured by Banks. Banks published a correction to his earlier paper (Banks 1990), acknowledging the computational error, but stating that the ''statistical difference cannot be equated to a biological or practical difference.'' In support of this, he cited the small differences between mean measurements, the large degree of overlap between eastern and western birds in the ranges of measurements for the three characteristics he measured, and the sensitivity of the statistical procedure to detect very small differences as ''significant,'' given the large sample sizes. Banks concluded that his fundamental finding remained unchanged, that is, separation into subspecies was not warranted by the morphological data, and that all yellow-billed cuckoos in North America should be classified simply as *Coccyzus americanus.*

Banks provided his data to two avian ecologists (Franzreb and Laymon 1993) who analyzed the same data set, supplemented by measurements for a fourth characteristic (tail length), and from a small number of additional

specimens of western birds. Franzreb and Laymon (1993) noted statistical errors by Banks (1988), finding that western birds are larger than eastern birds, and that one could separate a majority of western yellow-billed cuckoos from eastern yellow-billed cuckoos using discriminant analysis. Franzreb and Laymon (1993) also considered behavioral and ecological differences between western and eastern birds, and found evidence of differences in the timing of migration and breeding. They concluded that: (1) ''the recognition of subspecies on the basis of measurements of existing specimens is equivocal''; (2) study of geographical variation in vocalizations, bill color, and genetics was warranted; (3) the two subspecies should be retained pending the above studies; and (4) ''because the western yellow-billed cuckoo is so critically endangered * * * changes in its classification should be made only after the best possible study.'' Banks did not respond in print to their paper, but has stated that his conclusion remains unchanged (R. Banks, pers. comm., 1999).

Description and Natural History

The yellow-billed cuckoo is a member of the avian family Cuculidae and order Cuculiformes. The approximate 128 members of Cuculidae share the common feature of a zygodactyl foot, in which two toes point forwards and two toes point backwards. Most species have moderate to heavy bills, somewhat elongated bodies, a ring of colored bare skin around the eye, and loose plumage. Six species of Cuculidae breed in the United States, two species of which breed west of the Continental Divide, the yellow-billed cuckoo and the greater roadrunner.

The yellow-billed cuckoo is a medium-sized bird of about 30 centimeters (cm) (12 inches (in.)) in length, and weighing about 60 grams (2 ounces). The species has a slender, long-tailed profile, with a fairly stout and slightly down-curved bill which is blue-black with yellow on the base of the lower mandible. Plumage is grayish-brown above and white below, with red primary flight feathers. The tail feathers are boldly patterned with black and white below. The legs are short and bluish-gray, and adults have a narrow, yellow eye ring. Juveniles resemble adults, except the tail patterning is less distinct, and the lower bill may have little or no yellow.

Mated males have a distinctive ''kowlp'' call which is a loud, nonmusical series of notes about 2–3 seconds long which slows down and slurs toward the end. Unmated males use a separate call which is an indeterminate series of soft notes ''coo-coo-coo-coo.'' Both members of a pair may give the ''knocker'' call, which is a harsh, rattled, series of notes (Hughes 1999).

Western yellow-billed cuckoos breed in large blocks of riparian habitats (particularly woodlands with cottonwoods and willows), while eastern yellow-billed cuckoos breed in a wider range of habitats, including deciduous woodlands and parks (Ehrlich *et al.* 1988). Dense understory foliage appears to be an important factor in nest site selection, while cottonwood trees are an important foraging habitat in areas where the species has been studied in California (Laymon *et al.* 1993). Clutch size is usually two or three eggs, and development of the young are very rapid, with a breeding cycle of 17 days from egg-laying to fledging of young. Although yellow-billed cuckoos usually raise their own young, they are facultative brood parasites, occasionally laying eggs in the nests of other yellow-billed cuckoos or of other bird species (Hughes 1997).

Western yellow-billed cuckoos appear to require large blocks of riparian habitat for nesting. Along the Sacramento River in California, nesting yellow-billed cuckoos occupied home ranges which included 10 hectares (ha) (25 acres (ac)) or more of riparian habitat (Gaines 1974; Laymon *et al.* 1993). Another study on the same river found riparian patches with yellow-billed cuckoo pairs to average 40 ha (99 ac) (Halterman 1991). Home ranges in the South Fork of the Kern River in California averaged about 17 ha (42 ac) (Laymon *et al.* 1993). Nesting densities ranging from 1 to 15 pairs per 40 ha (99 ac) were estimated in a New Mexico study (Howe 1986), and three plots in Arizona had densities ranging of 8.2, 19.8, and 26.5 pairs per 40 ha (99 ac) (Hughes 1999). Nesting west of the Continental Divide occurs almost exclusively close to water, and biologists have hypothesized that the species may be restricted to nesting in moist river bottoms in the west because of humidity requirements for successful hatching and rearing of young (Hamilton and Hamilton 1965; Rosenberg *et al.* 1991). Nesting peaks later (mid-June through August) than in most co-occurring bird species, and may be triggered by an abundance of the cicadas, katydids, caterpillars, or other large prey which form the bulk of the species' diet (Hamilton and Hamilton 1965; Rosenberg *et al.* 1982). The species is inconspicuous on its breeding range, except when calling to attract or to contact mates.

Distribution

The breeding range of the yellow-billed cuckoo formerly included most of North America from southern Canada to the Greater Antilles and northern Mexico (AOU 1957, 1998). In recent years, the species' distribution in the west has contracted. The northern limit of breeding in the coastal States is now in Sacramento Valley, California, and the northern limit of breeding in the western interior States is southern Idaho (AOU 1998; Hughes 1999). East of the Continental Divide, the species breeds from southeastern Montana, the Dakotas, Minnesota, southern Ontario, southeastern Quebec and probably southern New Brunswick south to eastern Colorado, Texas, the Gulf coast, northeastern Mexico, the Florida Keys, the Greater Antilles and the northern Lesser Antilles (AOU 1957, 1998). The species overwinters from Columbia and Venezuela, south to northern Argentina (Ehrlich *et al.* 1992; AOU 1998). The extent to which yellow-billed cuckoos nesting in different regions of North America commingle during migration, or while overwintering, is unknown. Data provided by the U.S. Geological Survey-Biological Resources Division, Bird Banding Laboratory (BBL), from bird band returns to date is insufficient to determine migration or wintering patterns (BBL, *in litt.,* 1998).

Historic and Current Status

The available data, including that provided by the petitioners, suggest that the yellow-billed cuckoo's range and population numbers have declined substantially across much of the western United States over the past 50 years. Analysis of population trends is difficult because quantitative data, including historical population estimates, are generally lacking. However, historic and recent data are sufficient to allow an evaluation of changes in the species' range in the western United States. Rough extrapolations, which use observed densities of yellow-billed cuckoos and historic habitat distribution, indicate that western populations were once substantial (Service 1985). The following discussion is based on information provided by the petition and in our files, and focuses on western North America, the area for which the petition provides information.

Based on historic accounts, the species was widespread and locally common in California and Arizona, locally common in a few river reaches in New Mexico, common very locally in Oregon and Washington, generally local and uncommon in scattered drainages of

the arid and semiarid portions of western Colorado, western Wyoming, Idaho, Nevada, and Utah, and probably uncommon and very local in British Columbia. Hughes (1999) summarizes the species' historic range and status in these areas, which are described in detail below.

In California prior to the 1930s, the species was widely distributed in suitable river bottom habitats, and was locally common (Grinnell and Miller 1944; Small 1994). Yellow-billed cuckoos nested primarily in coastal counties from San Diego County near the Mexico border to Sonoma County in the San Francisco Bay region, in the Central Valley from Kern County through Shasta County, and along the lower Colorado River (Grinnell and Miller 1944; Dawson 1923; Small 1994; Gaines and Laymon 1984). Yellow-billed cuckoos also bred locally elsewhere in the State, including in Inyo, San Bernardino, and Siskiyou counties (Grinnell and Miller 1944).

The early literature relating to the yellow-billed cuckoo in California has been summarized and evaluated by Gaines (1974), Gaines and Laymon (1984), and Hughes (1999). Collectively they report dozens of locations where the species was historically reported and/or collected, sometimes in apparent abundance, but not subsequently found. Laymon and Halterman (1987b) estimated that in California the species' range was about 30 percent of its historical extent. Hughes (1999) provides an estimate of the California breeding population during the late 19th century of 15,000 pairs of breeding birds. Gaines (1974) believed that pre-development yellow-billed cuckoo populations in California were even greater than implied by the early literature, due to the species' inconspicious behavior and the fact that large tracts of floodplain riparian habitat had already been removed for development before the first records and accounts of the species began appearing in literature. Most modern investigators believe that a significant decline of the yellow-billed cuckoo in California occurred following the start of the major era of development beginning about the mid-1800s (Gaines and Laymon 1984; Laymon and Halterman 1987a, 1987b; Launer 1990).

The species was listed by the State of California as threatened in 1971, and was reclassified as endangered in 1987. Based on a 1986–87 Statewide survey, only three areas in the State support more than about five breeding pairs on a regular basis: The Sacramento River roughly between Colusa and Red Bluff; the South Fork of the Kern River upstream of Lake Isabella; and the lower Colorado River (Laymon and Halterman 1987a, b). Laymon and Halterman (1987a) estimated 31–42 breeding pairs in the State, a decline of 66–81 percent from a 1977 survey (Gaines 1974; Gaines and Laymon 1984). Along the lower Colorado River, on the California-Arizona border, Laymon and Halterman (1987a) estimated an 80–90 percent decline by 1986 from an estimated 180–240 pairs in 1976–1977, while Rosenberg *et al.* (1991) estimated a decline of 93 percent over this period, using an initial estimate of 242 pairs in 1976–1977. These declines coincided with habitat losses resulting from high water levels of long duration in 1983–1984 and 1986 (Laymon and Halterman 1987b; Rosenberg *et al.* 1991). Final results from a Service-funded 1999 State-wide survey indicate that yellow-billed cuckoo numbers in the Sacramento Valley and along the Kern River are comparable to numbers from the 1980s, while only two pairs were located on the California side of the Colorado River. No pairs were found in the part of the State west of the Colorado River and south of the Kern River (M. Halterman, Kern River Research Center, pers comm., 2001; Halterman *et al.* 2001). Although other biologists detected cuckoos at Prado Flood Control Basin, a pair on the Amargosa River, and a single cuckoo at the Mojave River near Victorville (Halterman *et al.*, 2001), the lack of detections during the 1999 survey in these and other southern California areas where comparable previous surveys found cuckoos indicates population declines since the 1970s.

An example of the species' decline in California is found in the San Joaquin Valley. Yellow-billed cuckoo have been recorded from every county in the San Joaquin Valley region except Kings County, and were locally common as a breeding bird at least in San Joaquin, Kern, Fresno, and Stanislaus counties (Gaines and Laymon 1984). Despite surveys for the species (Laymon and Halterman 1987a), there have been few records from the San Joaquin Valley since the 1960s. If the species still breeds there, the number of breeding pairs is very small (Gaines and Laymon 1984; Laymon and Halterman 1987a).

In the Pacific Northwest, the species was formerly fairly common locally in willow bottoms along Willamette and Columbia Rivers in Oregon, and in the Puget Sound lowlands and along the lower Columbia River in Washington (Marshall 1996; Roberson 1980; Jewett *et al.* 1953; Gabrielson and Jewett, 1940). The species was also found locally in southeast British Columbia (Hughes 1999), but the available data are not adequate to determine historic abundance. The species was rare east of the Cascade Mountains in these states and provinces. The last confirmed breeding records were in the 1930s in Washington, and in the 1940s in Oregon. It may now be extirpated from Washington. The species is ranked as critically imperiled as a breeding bird in Washington and is under review by the Washington Department of Fish and Wildlife for State listing (Washington Natural Heritage Program 1997).

In Oregon, four yellow-billed cuckoo sightings were made west of the Cascade Mountains between 1970 and 1994. At least 20 records occur east of the Cascades (Gilligan 1994), and a few pairs may nest very locally in the eastern part of the State. A 1988 survey in eastern Oregon and Klamath County located no birds, but identified potential breeding habitat along the lower Owyhee River (Littlefield 1988). Most recent records were recorded in May and June of 1999 (Johnson *et. al.* 2001), and a single yellow-billed cuckoo was sighted during the breeding season (June 26–27, 1999) along Bonita Road in Malheur County. It is believed that this species has been regularly sighted (without confirmed nesting) at the Malheur National Wildlife Refuge (B. Alterman, pers. comm., 2001).

The species occurred in southwest British Columbia (Victoria, Kamloops, Chilliwack) (Bent 1940), but was apparently never common; the last confirmed breeding was in 1920s. The species has been recorded twice in British Columbia since the 1920s (Siddle 1992), and is considered extirpated (British Columbia Conservation Data Centre 1999; Hughes 1999).

Arizona probably contains the largest remaining yellow-billed cuckoo population among States west of the Rocky Mountains. The species was historically widespread and locally common (Phillips *et al.* 1964; Monson and Phillips 1981; Groschupf 1987). One hundred sixty-eight yellow-billed cuckoo pairs and 80 single birds were located in Arizona in 1999, based on preliminary results from a State-wide survey which covered 427 km (265 mi) of river and creek bottoms (R. Magill, pers. comm., 1999). Based on these results, it is evident that yellow-billed cuckoo numbers in 1999 are substantially less than some previous estimates for Arizona, including a 1976 estimate of 846 pairs for the lower Colorado River and five major tributaries (Groschupf 1987). Losses of riparian habitats from historic levels have been substantial in Arizona (Noss

et al. 1995; Ohmart 1994; Rosenberg *et al.* 1991). Losses have been greatest at lower elevations (below about 900 m (3,000 ft) elevation) along the Lower Colorado River and its major tributaries, which have been strongly affected by upstream dams, flow alterations, channel modification, and clearing of land for agriculture (Groschupf 1987). As habitat has declined, yellow-billed cuckoo numbers have likely declined, as has been documented for the lower Colorado River (Rosenberg *et al.* 1991), and described above for California. Following the high water levels of 1983–1984 and 1986, yellow-billed cuckoo numbers also declined by 70–75 percent on the Bill Williams River delta, which abuts the lower Colorado River (Rosenberg *et al.* 1991). Habitat has since recovered on the Bill Williams River delta, but yellow-billed cuckoo numbers remain low (M. Halterman, pers. comm., 1999). In some Arizona areas, such as the San Pedro Riparian National Conservation Area along about 65 km (40 mi) of the upper San Pedro River, ongoing conservation efforts may improve habitat conditions for the species. The species is considered a Species of Concern by the Arizona Game and Fish Department, a designation which does not provide protection to the species (T. Corman, Arizona Game and Fish Department, pers. comm., 1999).

In Colorado, west of the Continental Divide, the species was probably never common (Bailey and Niedrach 1965; Kingery 1998), and is now extremely rare (Kingery 1998). The yellow-billed cuckoo is an uncommon summer resident of Colorado. According to the Colorado Breeding Atlas (Kingery 1998), the general status of the yellow-billed cuckoo in Colorado is that it is nearly extirpated, with once common eastern populations becoming uncommon to rare. Only one confirmed nesting observation occurred along the Yampa River near Hayden during the Breeding Bird Atlas surveys conducted from 1987–1994. Other confirmed nesting records (mid 1980s) have been associated with outbreaks of caterpillar infestations in box elders (*Acer negundo*) in the Four Corners Region/ Durango area. However, over recent years , the use of insecticides and the removal of box elders has reduced the outbreaks of insect infestations, resulting in fewer occurrences of yellow-billed cuckoo in the area (Dr. Albert Spencer in Marylin Colyer, *in litt.,* 2001).

National Park Service (NPS) surveys in southwest Colorado, from 1988 through 1995 for the Colorado Bird Breeding Atlas, found no records of yellow-billed cuckoo. Park staff also conducted extensive surveys of the Mancos River in the park six times during the past 12 years and adjacent to Yucca House National Monument throughout 2000 with no reports of yellow-billed cuckoos (Marylin Colyer, *in litt.*, 2001). Few sightings of the yellow-billed cuckoo have occurred in western Colorado along the Colorado River near Grand Junction (Terry Ireland, Service, pers. comm., 2001). In 1998, biologists surveyed 387 km (242 mi) of lowland river riparian habitat along six rivers in west-central Colorado for yellow-billed cuckoos, finding one individual bird (Dexter 1998).

There is very limited data for the area west of the Continental Divide in Montana. Three specimens of the yellow-billed cuckoo have been collected since the early 1960s, and there are few recorded sightings of the yellow-billed cuckoo since the early 1900s (Saunders 1921). Local records for the species around the Flathead River area are scarce and there have been a few records which indicate that they do occur in this area, but no confirmed breeding information exists (S. Lenard, Montana Audubon, pers. comm., 2001). Yellow-billed cuckoos may be seen locally in the southern portion of the State along the larger stream corridors that run from Montana into northeastern Wyoming (L. Nordstrom, Service, pers. comm., 2001).

In Idaho, the species was considered a rare and local summer resident (Burleigh 1972). In northern and central Idaho, there have only been four records of yellow-billed cuckoo over the last century (Taylor 2000). The most recent record for this area comes from the South Fork of the Snake River in 1992 (Stephens and Sturts 1997). In southwestern Idaho, the yellow-billed cuckoo has been considered a rare, sometimes erratic, visitor and breeder in the Snake River valley. Numerous sightings have been recorded in the southwestern part of the State during the past 25 years. The yellow-billed cuckoo appears to be hanging on precariously in Idaho and could easily become extirpated from the State in the near future. The available information is inadequate to judge population or distributional trends, and the breeding population in Idaho is likely limited to a few breeding pairs, at most.

The historic status of the yellow-billed cuckoo in Nevada is poorly documented, although there is evidence it was nesting along the lower Truckee and Carson Rivers and in southern Nevada along the Colorado and Virgin Rivers (Linsdale 1951; Neel 1999). Surveys using call-playback techniques were done in the early 1970s along the Truckee, Carson, and Walker Rivers. The surveys of the six remaining habitats able to support yellow-billed cuckoos, as described by Gaines (1974), resulted in no birds being heard or seen (Oakleaf 1974). The most recent documentation of the yellow-billed cuckoo nesting in Nevada was a pair at Beaver Dam Wash, Lincoln County in 1979. Since 1990, there have been only sporadic sightings of single birds throughout the State (Neel 1999). The Nevada Division of Wildlife (NDW) (2001) conducted surveys in 2000 in southern Nevada and documented 19 yellow-billed cuckoo, comprising 4 pairs and 11 unpaired birds with no nests being found. An estimate by the NDW put the summer population of yellow-billed cuckoo between 20–30 birds State-wide.

Suitable habitat for the yellow-billed cuckoo is very limited in Nevada, with most areas of cottonwood riparian forests being fragmented (NDW, *in litt.,* 2001). NPS studies from Great Basin National Park (NPS, *in litt.,* 2001) in the South Snake Mountain Range determined that of the 190 ha (469 ac) of existing riparian habitat only 3 ha (8 ac) was suitable for supporting yellow-billed cuckoo. Most of the suitable habitat along the Truckee, Carson, and Walker Rivers has been modified or destroyed (NDW, *in litt.,* 1985, 1990).

The decline of the yellow-billed cuckoo in Clark County, Nevada has been attributed to the reduction or degradation of riparian habitat, river channelization, livestock grazing, use of pesticides, non-native plant encroachment (tamarisk), and brown-headed cowbird parasitism (Clark County 2000). The State of Nevada has listed the yellow-billed cuckoo as State Rank S1 Nevada State Protected. This means that the species is protected in Nevada and is considered critically imperiled due to extreme rarity, imminent threats, and/or biological factors. Under such a designation, the protected species may not be killed, captured, shot at, trapped, wounded, possessed, collected, seined, or netted, nor can a person attempt to do any of these activities.

In Wyoming, population status and trends of yellow-billed cuckoos are unknown (Wyoming Game and Fish Department 1999). Remaining suitable cottonwood riparian habitat for this species is very limited in distribution in the State and is not adequately surveyed. Within the DPS identified in this finding, breeding activity is considered unconfirmed but observations and other anecdotal evidence suggests that breeding may

occur within the Green River Basin and along the Snake River within the State (P. Deibert, Service, pers. comm., 2001).

In New Mexico, the species was historically rare State-wide, but common in riparian areas along the Pecos and Rio Grande Rivers, as well as uncommon to common locally along portions of the Gila, San Francisco and San Juan Rivers (Hubbard 1978; Bailey 1928). Current information is inadequate to judge trends, but the species was fairly common in the mid-1980s along the Rio Grande River between Albuquerque and Elephant Butte Reservoir, and along the Pecos River in southeastern New Mexico. Numbers may have increased there in response to tamarisk (*Tamarix* species) colonization of riparian areas formerly devoid of riparian vegetation (Howe 1986). A review on the status of the species in New Mexico concluded that the species would likely experience future declines in the State due to loss of riparian woodlands (Howe 1986). Riparian habitat degradation and/or loss of cottonwood regeneration are likely occurring in some areas. Along the Rio Grande, water and flood control projects have altered flow regimes and river dynamics, inhibiting regeneration of cottonwood-willow riparian habitats. Elsewhere in the State, grazing also contributes to degradation and loss of riparian habitats. The future degradation and loss of such riparian vegetation would limit the amount of habitat available for the cuckoo (B. Howe, Service, pers. comm., 1999).

The portion of Texas west of the Pecos River has been identified as within the range of the historic western subspecies (Oberholser and Kincaid 1974), but other authors consider birds from this area most similar to eastern yellow-billed cuckoos (Hughes 1999). The species still occurs in this area, but its conservation status is unknown (Groschupf 1987). Population reports of the yellow-billed cuckoo in the trans-Pecos area of western Texas near Big Bend National Park indicate that the area supports scattered populations of yellow-billed cuckoo (Wauer 1971). These populations tend to be associated with areas of springs and developed wells or earthen ponds supporting mesic vegetation such as cottonwood and willow. The bird checklist of Guadalupe Mountains National Park near Beaumont Texas on the New Mexico border lists the yellow-billed cuckoo as a rare summer and fall breeder. Yellow-billed cuckoo population trends from 1966 to 1998 for the entire State of Texas are showing a decline (BBL 1999; Service 1989). Yellow-billed cuckoo call studies from the University of Texas at El Paso, conducted from 1988 to 1998, noticed a significant decline in response calls over numerous sites in southern New Mexico and western Texas. Average response percentages went from 30 percent in 1988 to 5 percent in 1998. The study concluded that based on the results of the surveys the yellow-billed cuckoo is a rare and highly vulnerable species in the Rio Grande Valley of Southern New Mexico and extreme west Texas (J. Sproul, University of Texas–El Paso, *in litt.,* 2000). The Texas Department of Parks and Wildlife (TDPW) currently does not separate the eastern and western populations of the yellow-billed cuckoo and identifies the species as globally abundant and State secure since the State ranking was last revised in 1994. However, subsequent publications by the TDPW, suggest the species is becoming increasingly rare and declining due to urban development and reduction of habitat (Shakelford and Lockwood 2000). Peterson and Zimmer (1998) reported that the yellow-billed cuckoo may be declining due to habitat destruction in El Paso County. The species is considered to be widespread and uncommon to common in central and eastern Texas (Oberholser and Kincaid 1974; Rappole and Blacklock 1994).

In Utah, the species was historically uncommon to rare along river bottoms. There are at least two recent breeding records (Ouray National Wildlife Refuge on the Green River in 1992; and the Matheson Wetland Preserve near Moab in 1994, L. Romin, Service, pers. comm., 2000), and reports from at least five other areas where breeding has been suspected (E. Owens, Service, pers. comm., 1998). Recent avian surveys of riparian habitats within the historic range (the Salt Lake Valley) recorded three yellow-billed cuckoos in 7,000 survey hours (E. Owens, pers. comm., 1998). Threats to yellow-billed cuckoos and their habitat along the Green River in Utah include habitat loss and fragmentation from flooding and dewatering, encroachment by non-native tamarisk, grazing, and oil and gas development (Hanberg 2000 in Howe and Hanberg 2000). Management of flow regimes was identified as a major impact on habitat with extremely high flows removing habitat, and extended periods of low flows likely drying up yellow-billed cuckoo habitat, which could result in the loss of suitable habitat and invasion by tamarisk. Cattle grazing also was identified as a possible threat to yellow-billed cuckoo habitat by contributing to the loss of subcanopy vegetation and cottonwood regeneration by grazing and trampling. Another potential threat to yellow-billed cuckoo habitat was attributed to recreational impacts by river users (*e.g.,* use of cottonwood stands for campsites and ''lunch spots''). The Utah Division of Wildlife Resources (1998) stated that the yellow-billed cuckoo is threatened by habitat loss from agricultural, water, road and urban development, and has declined significantly across its range.

In the United States east of the Rocky Mountains, the yellow-billed cuckoo is uncommon to common as a breeding bird. The species' habitat in this region, riparian and other broad-leaved woodlands (Ehrlich *et al.* 1988), occupy a significant area of the region (Service 1981). This is in sharp contrast to the west, where suitable habitat is limited to narrow and often widely separated riparian zones that occupy less than one percent of the western landscape (Service 1981; Knopf and Samson 1994).

Trend data based on detections by the Breeding Bird Survey (BBS) program (BBS 1999) indicate significant population declines between 1966 and 1996 in 12 of 29 eastern and central States; the average annual decline during this period was 1.9 percent. Most of these declines have occurred since 1980. The average number of detections of yellow-billed cuckoos increased in these 29 States for the interval from 1966 to 1979; however, the average number of detections decreased in all 29 States between 1980 and 1996. In 15 of these States, the decline between 1980 and 1996 is statistically significant. The average annual decline during this period was 2.8 percent. Trends vary widely between States, ranging from a decline of 15.8 percent (Connecticut, 1966–1996) to an increase of 17 percent (Nebraska, 1966–1979). Bird survey data are insufficient to evaluate population trends in regions west of the Continental Divide, but do provide data for two Service regions which span both sides of the Divide. The BBS data indicate declines of 2.7 percent in Region 2 (Arizona, Oklahoma, Texas, and New Mexico; 1980–1996), and 4.7 percent in Region 6 (Kansas, Nebraska, the Dakotas, Montana, Colorado, Utah, and Wyoming; 1980–1996).

The species breeds locally in Mexico, and is a widespread transient during migration (Howell and Webb 1995). The species has been recorded as a summer resident (presumably breeding) locally within several regions of Mexico, including the State of Baja California Sur; northwest Mexico from Sonora and Chihuahua south to Zacatecas; northeast Mexico on the Atlantic slope from Coahuila to Tamaulipas; and in the northern Yucatan Peninsula (Howell

and Webb 1995). The species has been recorded as locally common in the state of Sonora (Russell and Monson 1998), but recent or quantitative information for that area is lacking (L. Hays, Service, pers. comm., 1999), as is data on the status of yellow-billed cuckoo populations in Mexico.

Previous Federal Action

In 1986, we were petitioned to list the yellow-billed cuckoo as endangered in the States of California, Washington, Oregon, Idaho, and Nevada (Manolis *et al.* 1986). We received this petition from Dr. Tim Manolis, Western Field Ornithologists, and it was co-signed by the Animal Protection Institute, Defenders of Wildlife, Sacramento River Preservation Trust, Friends of the River, Planning and Conservation League, Davis Audubon Society, Sacramento Audubon Society, and the Sierra Club. We published a 90-day finding on January 21, 1987, in the **Federal Register**, stating that the petition presented substantial information indicating that the requested action may be warranted (52 FR 2239). In that finding, we acknowledged difficulties in defining a distinct, biologically defensible population of the western yellow-billed cuckoo for possible listing, and that there were gaps in available information as to its status in certain parts of its range. We published a 12-month finding on December 29, 1988, in the **Federal Register** (53 FR 52746), stating that the petitioned action was not warranted, finding that the petitioned area did not encompass either a distinct subspecies or a distinct population segment. The finding cited: (1) A study by Dr. Richard C. Banks (1988) which concluded that the morphological differences between eastern and western birds were too small to merit separate subspecies, and (2) a lack of distinctness for the petitioned ''population,'' noting that yellow-billed cuckoos nest along the Arizona-California border on the lower Colorado River. This indicated that the California population in that area is not distinct, and that if the species was listed per the petition, listed California birds could not be distinguished or separate from unlisted Arizona birds.

On February 9, 1998, we received a petition, dated February 2, 1998, from the Southwest Center for Biological Diversity on behalf of 22 groups. The petitioners requested us to list the yellow-billed cuckoo, stating that they believe the species ''is endangered in a significant portion of its range (i.e., the western United States).'' The petitioners also stated they ''believe this range of endangerment is coterminous with a valid subspecies the western yellow-billed cuckoo (*Coccyzus americanus occidentalis*),'' and that they would concur with a decision to list this taxon. Included in the petition was supporting information on the species relating to taxonomy, ecology, and adequacy of existing regulatory mechanisms, and historic and present distribution, current status, and threats in the western United States.

On February 17, 2000, we announced a 90-day petition finding (65 FR 8104) concluding that the petition presented substantial scientific or commercial information to indicate that the listing of the western yellow-billed cuckoo may be warranted. In that finding, we also found that the petition did not present sufficient information to indicate that listing of the species as a whole may be warranted. Our 90-day finding concluded that the available information did not resolve the issue of the validity of separating the yellow-billed cuckoo into two subspecies, but that further investigation, through a status review, was required to determine the taxonomic validity of the western subspecies, and to determine if listing the western yellow-billed cuckoo as a DPS may be warranted.

Since publication of the finding, we have gathered additional information, as a result of three actions: (1) We asked the AOU Committee on Classification and Nomenclature (Committee) to review the available information, particularly the published taxonomic studies of Banks (1988, 1990) and Franzreb and Laymon (1993), and to make a recommendation as to the validity of the yellow-billed cuckoo subspecies; (2) we funded an analysis of the geographic variation in population genetics throughout the species' United States range, conducted by Dr. Robert C. Fleischer, head of the Molecular Genetics Laboratory of the Smithsonian Institution; and (3) we solicited, in our 90-day finding, and during two open comment periods, information regarding the taxonomic status of the species, information on behavioral and ecological differences between eastern and western yellow-billed cuckoos, and other information which might aid in differentiating population segments.

In a letter dated March 10, 2000, we requested the Committee's review of the taxonomic validity of the subspecies, and indicated that this would greatly assist us in preparing the 12-month finding, which would address the potential conservation needs of the species (Service, *in litt.,* 2000). The Committee, consisting of six professional North American ornithologists, responded in a letter dated November 17, 2000. They agreed with Dr. Bank's original 1988 conclusion that the yellow-billed cuckoo should be considered monotypic, that is, the named western form *C. a. occidentalis* is not a recognizably distinct subspecies. The Committee went on to say that they believe that the differences between the western populations and those in the rest of the range of the species are so small and the degree of overlap so great as to preclude separation at any level compatible with recognition of a subspecies (Committee, *in litt.,* 2000).

On January 14, 2000, the Service and United States Geological Service (USGS) solicited proposals via a market survey, for a genetic analysis throughout the species breeding range in the United States and Mexico (USGS, *in litt.,* 2000). We wanted to determine if a valid subspecies or DPS exists for the yellow-billed cuckoo, and for which a listing proposal could be supported under the Act. From a total of five proposals received, we selected and funded a proposal submitted by Dr. Robert Fleischer. We received the final genetics study prepared by Dr. Fleischer on April 24, 2001. In the report, Dr. Fleischer concluded from his analysis of two mitochondrial genes (ATPase 8 and the control region) sequenced from 66 yellow-billed cuckoos samples across the continental United States and Mexico, that no valid subspecies exists (R. Fleischer, *in litt.,* 2001).

On June 5, 2001, we announced in the **Federal Register** (66 FR 30148), the Notice of Availability of Dr. Fleischer's report, reopened the comment period until June 20, 2001, and sent the report to six professionals in the field of population genetics, or knowledgeable of the life history and distribution of the yellow-billed cuckoo in North America for peer review. The individuals and institutions which were asked to review the study included: Dr. George Barrowclough of the American Museum of Natural History, New York, NY; Dr. Susan Haig of the USGS Forest and Rangeland Ecosystem Science Center; Dr. Eben Paxton of the USGS Colorado Plateau Field Station; Dr. Allen Barker of the Royal Ontario Museum, Ontario, Canada; Dr. Robert Zink, University of Minnesota; and Dr. Oliver Ryder of the Center for Reproduction of Endangered Species, San Diego CA. We received three responses to the six inquiries for review within the comment period. These responses were from Dr. George Barrowclough; Dr. Susan Haig; and Dr. Oliver Ryder.

During this comment period, we received additional review of the study from individuals in the field of

population genetics. These individuals included: Dr. Peter Stacey of the University of New Mexico; Dr. Leo Joseph of the Academy of Natural Sciences Philadelphia, Pennsylvania; Dr. Phil Hedrick of Arizona State University; and Dr. Martin Taylor of the Center for Biological Diversity. We also received comments from the Wyoming Department of Game and Fish. All three of the peer reviewers, and the five reviewers sending additional comments, acknowledged Dr. Fleischer's determination from his study that there was a general lack of differentiation between the eastern and western populations of yellow-billed cuckoo. However, three individuals concluded that there was evidence which suggested that the yellow-billed cuckoo has undergone a recent range expansion and appears to have separated from each other in the relatively recent past. All of the reviews, except that of Dr. George Barrowclough, Dr. Susan Haig, and Wyoming Department of Game and Fish, stated that the use of mitochondrial DNA (mtDNA) sequences for markers would not necessarily show more recent diversions of populations since mtDNA evolve more slowly, and that perhaps other genetic markers would.

Since February 17, 2000, when the first open comment period was announced for the 90-day finding on the petition, we have received information from the public as a result of a mass mailing to over 2,500 individuals including Federal, State and local agencies and Tribes throughout North America. This list was partially created from the 45th edition of the Conservation Directory published annually by the National Wildlife Federation, and The Flock (a biennial membership directory for several North American ornithological societies; The Association of Field Ornithologists, The Waterbird Society, The Cooper Ornithological Society, The Raptor Research Foundation, and The Wilson Ornithological Society). We received over 100 responses from agencies and individuals in the form of letters, reports, survey information and e-mails. We also received additional information from Dr. Steve Laymon, one of the petitioners (S. Laymon, *in. litt.,* 2000). This information consisted of additional biological, behavioral, and ecological data and professional correspondence on the yellow-billed cuckoo in support of the petition.

This 12-month finding is made in accordance with a court order which requires us to complete a finding by July 19, 2001 (*Southwest Center for Biological Diversity* v. *Badgley et al.* (No. 00–1045–KI (D.OR.)).

Distinct Vertebrate Population Segment

Under the Act, we must consider for listing any species, subspecies, or, for vertebrates, any DPS of these taxa if there is sufficient information to indicate that such action may be warranted. To implement the measures prescribed by the Act and its Congressional guidance, we (along with the National Marine Fisheries Service) developed policy that addresses the recognition of DPSs for potential listing actions (61 FR 4722). The policy allows for more refined application of the Act that better reflects the biological needs of the taxon being considered and avoids the inclusion of entities that do not require its protective measures.

Under our DPS policy, we use two elements to assess whether a population segment under consideration for listing may be recognized as a DPS. The elements are: (1) The population segment's discreteness from the remainder of the taxon, and (2) the population segment's significance to the taxon to which it belongs. If we determine that a population segment being considered for listing represents a DPS, then the level of threat to the population segment is evaluated based on the five listing factors established by the Act to determine if listing it as either threatened or endangered is warranted.

Below, we address under our DPS policy the population segment of yellow-billed cuckoos that occurs in the western United States. The area for this DPS would be the area west of the crest of the Rocky Mountains. For the northern tier of Rocky Mountain States (Montana, Wyoming, northern and central Colorado), the crest coincides with the Continental Divide. In the southern Colorado and New Mexico the crest coincides with the eastern boundary of the Rio Grande drainage, including the Sangre de Cristo Mountains and excluding the drainage of the Pecos River. In west Texas the DPS boundary is the line of mountain ranges that form a southeastern extension of the Rocky Mountains to the Big Bend area of west Texas, and which form the western boundary of the Pecos River drainage.

Discreteness

A population segment of a vertebrate species may be considered discrete if it satisfies either one of the following two conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation; and (2) it is delimited by international governmental boundaries within which significant differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist.

The proposed DPS is based primarily on the first of the those two conditions, the marked separation from other populations. In addition, the northern and southern boundaries of the proposed DPS are the international boundaries with Canada and with Mexico. Although observed locally into British Columbia, Canada, in the early 1900s, the yellow-billed cuckoo is believed to have been extirpated from that province (AOU 1998; Hughes 1999).

The status of the yellow-billed cuckoo in Mexico is of great concern because most of its habitat is privately or communally owned, and severe degradation has occurred and continues to occur from grazing, wood cutting, recreation, and agricultural practices (Robert Mesta, Service, *in litt.,* 2001). In addition, the yellow-billed cuckoo is not officially protected by the Mexican government, there are no Federal laws which require mitigation for loss or destruction of habitat, and there is little authority on private and communal lands to protect and manage for the yellow-billed cuckoo without the consent and cooperation of the landowners (R. Mesta, *in litt.,* 2001). The DPS policy allows us to delimit the boundaries of a DPS by international boundaries where differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act. For the reasons stated above, we believe that these factors collectively play a role in delimiting the southern DPS boundary along the international border with Mexico from the Big Bend area of Texas westward to the Pacific Ocean.

We recognize that yellow-billed cuckoos within the described DPS are not wholly isolated from eastern yellow-billed cuckoo populations by the Rocky Mountain crest in west Texas, and to a lesser extent, further north. As discussed elsewhere, recent genetic data do not support separation of the yellow-billed cuckoo into eastern and western subspecies. Our DPS policy explicitly states that complete reproductive isolation is not required to recognize discreteness of a DPS, and DPS recognition can be appropriate where differences between populations are not sufficiently large to merit recognition of subspecies. Several lines of evidence contributed to our conclusion that the

population of yellow-billed cuckoos west of the Rocky Mountain crest meets the discreteness criteria. This evidence is discussed below.

Physical Discreteness

Yellow-billed cuckoos breed on both sides of the crest of the Rocky Mountains where suitable habitat occurs (Johnsgard 1986). Although the Rocky Mountains may not wholly prevent movement of yellow-billed cuckoos across the Rocky Mountain crest, the available information indicates that the Rocky Mountains substantially separate yellow-billed cuckoo populations occurring east and west of their crest. In this section, we relate the pattern of yellow-billed cuckoo distribution to geographic and other physical factors. Physical factors also interact with ecological factors, as altitudinal, topographic, and climatic factors influence the distribution of suitable habitat for nesting yellow-billed cuckoos. We address these interactions in the following section on ecological discreteness.

The eastern boundary of the western DPS spans a distance of about 2,400 kilometers (km) (1,500 miles (mi)), from the Montana-Canada border to the Texas-Mexico border in the Big Bend area. As will be detailed below, the degree of separation varies from north to south, but is substantial along more than 87 percent of the boundary, encompassing the DPS boundary from the Canada border to southern New Mexico. From the Canada border to the southern end of the Sangre de Cristo Mountains in northern New Mexico, a distance of about 1,700 km (1,050 mi), nesting birds and habitat in the western DPS are separated physically from nesting yellow-billed cuckoo populations in the east by an extensive high elevation zone of the Rocky Mountains, and/or by extensive areas where records of cuckoos, and cuckoo habitat, are very sparse. This barrier becomes less defined for the small area of northern Santa Fe County and western Mora and San Miguel counties. In this area, cuckoos in the western DPS breed along the Rio Grande near Los Alamos, while its assumed that eastern cuckoos nest as little as 100 km (60 mi) to the east along the Mora and upper Pecos Rivers (Hubbard 1978; Howe 1986). However, eastern cuckoo records in this area of proximity are few, and the areas of regular cuckoo occurrence (Howe 1986) remain separated by about 200 km (124 mi).

Just to the south of the Sangre de Cristo Mountains, the area of separation broadens again. From here to the New Mexico-Texas border is about 380 km (236 mi), and a broad band, about 160 km (100 miles) east-west, supports little cuckoo habitat and has very few cuckoo records. The lone exception is a small, isolated riparian area near Alamogordo, where cuckoos regularly occur (Howell 1986). This southern New Mexico zone of separation includes extensive highlands and mountains exceeding 1,800 meters (m) (6,000 feet (ft)) elevation, as well as the desert basin between the Rio Grande and Sacramento Mountains.

In west Texas and southern New Mexico, the physical separation is less marked, where the Rocky Mountains become a series of relatively low, isolated ranges within a high plateau, stretching between the Guadalupe Mountains on the Texas-New Mexico border to the Chisos Mountains in the Big Bend National Park, on the border with Mexico. In this region, the DPS boundary and the separation between eastern and western birds may be less complete than for the rest of the DPS. In our administrative finding for our 90-day finding for this petition (65 FR 8104), we noted the lack of a barrier between the Rio Grande and Gila River drainages in southern New Mexico. This problem is addressed by the DPS boundary, which includes both of these drainages, for reasons described above. The affinity of yellow-billed cuckoos from west Texas is still problematic, however, in that the Pecos River drainage is not strongly separated from the Rio Grande drainage upstream of the Big Bend, and yellow-billed cuckoo movement and interchange across the DPS boundary is expected to be greater in this region than along the rest of the DPS boundary. Such interchange and resulting diffusing of differences may be the reason why west Texas yellow-billed cuckoos have been reported to be morphologically aligned with both eastern yellow-billed cuckoo populations (Hughes 1999) and with western yellow-billed cuckoos. The majority of the available information, including timing of nesting, indicates that birds from Texas west of the Pecos River and from the Big Bend upstream exhibit greater similarity to western yellow-billed cuckoos (Wauer 1973; Oberholser and Kincaid 1974; Franzreb and Laymon 1993; J. Sproul, *in litt.,* 2001). Considering these factors, along with the information on physical factors, we have included west Texas within the western DPS.

In the northern Rocky Mountains and northern Great Plains, from the Canada border south through Colorado, the yellow-billed cuckoo is ''extremely rare and local'' as a breeding bird (Hughes 1999). While the species breeds locally in southeast Montana, southern Idaho, northeast and southwest Wyoming, west Colorado, and Utah (Hughes 1999), it is quite rare or absent within the higher Rocky Mountains. An examination of the distributional records for the Rocky Mountain region indicates that within this area of few yellow-billed cuckoos, the species is even more scarce at elevations above approximately 2,000 m (6,600 ft). Most sources describe the species' range as extending up to this elevation (often described as occurring in the Sonoran Life Zones in older works) (Bailey 1928; Bailey and Niedrach 1965; Phillips *et. al.* 1964; Johnsgard 1986; Corman and McGill 2000; Hanberg 2000; M. Long, Service, pers. comm., 2001).

Within western Montana and southern Wyoming, the Rocky Mountain crest is less marked. In western Montana, the unoccupied region includes the area west of the Continental Divide, and extends into the panhandle of northern Idaho. The high elevation zone in western Montana narrows to a width of 80 km (50 mi) and sometimes less, where deep river valleys of the Columbia River drainage cut through the high mountains. However, the scarcity of records from this region indicates that nesting west of the Continental Divide in Montana is at most very limited and sporadic (Hughes 1999; P. Hendricks, Montana Natural Heritage Program, *in litt.,* 2001), and the region of effective separation in Montana may be as wide as 800 km (500 mi) (S. Laymon, *in. litt.,* 2000). Coupled with the rarity of yellow-billed cuckoos in adjacent areas to the west and east, the available information indicates that the Rocky Mountain region in Montana and northern Idaho forms a wide break between yellow-billed cuckoo populations to the east and west.

Suitable habitat in Wyoming is limited to Park, Fremont, western Hot Springs, and central and eastern Sweetwater counties. However, there is no data which suggests these areas are occupied by yellow-billed cuckoos (P. Deibert, pers. comm., 2001). In southern Wyoming, the crest of the Rocky Mountains dips to near 2,300 m (7,500 ft) to the southeast of the Wind River Range. In this area, the Great Divide Basin forms a high, internal basin which separates the Snake River drainage from the Missouri River drainage. This basin, while not a physical barrier topographically, is a high desert lacking in yellow-billed cuckoo habitat (P. Deibert, pers. comm., 2001; T. Collins, Wyoming Game and Fish Department, pers. comm., 2001). The basin consists mostly of rolling plains, extensive playas and dune fields that receives 2.25

cm (0.9 in.) of precipitation annually (Reiners and Thurston 1996). Although this lower area may be less of a physical barrier to birds, reported yellow-billed cuckoo sites to the east and west in this area are separated by about 240 km (150 mi) of unsuitable habitat, as is true for the rest of the Rocky Mountains' crest from the Montana to Colorado border (Reiners and Thurston 1996; Wyoming Game and Fish, *in litt.,* 2001). Therefore, we find that the appropriate DPS boundary is that which encompasses the Snake River basin, as it follows the southern and western edge of the Great Divide Basin.

In Colorado, the band of high-elevation is over 150 km (100 mi) wide along the entire north-south axis of the Rocky Mountains. The available data indicate that yellow-billed cuckoos was probably never common on the western slope of the Rocky Mountains in Colorado (Bailey and Niedrach 1965; Kingery 1998), and is now extremely rare (Kingery 1998). Based on the available information, the Rocky Mountains in Colorado form a substantial break between yellow-billed cuckoo populations east and west of the crest, a break which is accentuated by the species' current extreme rarity in Colorado west of the Great Plains.

The separation of western and eastern populations of yellow-billed cuckoo continues south along the Rocky Mountain crest into Southern Colorado, eastern New Mexico and southwest Texas, terminating at the Rio Grande river in the Big Bend National Park. Thus, the western yellow-billed cuckoo DPS includes portions of the Rio Grande hydrological basin, and excludes the Pecos River drainage.

The Rio Grande basin differs from the rest of the DPS in that it includes an area which drains to the Gulf of Mexico. However, its inclusion is consistent with the DPS in other respects. First, the DPS boundary follows the crest of the southeastern extent of the Rocky Mountains. This crest region encompasses a series of mountain ranges and other highlands above 1,800 m (6,000 feet), including the Sange de Cristo, Sandia, Manzano, San Andres, Sacramento, and Guadalupe mountains. In this region, the DPS boundary also includes as extensive desert basins, notable the Tularosa and Jornado del Muerto basins. Together, these highlands, mountains, and desert basins, centered on the ranges that divide the Pecos and Rio Grande rivers, form a broad zone that lacks suitable nesting habitat and is expected to separate the eastern and western cuckoo populations, as do the higher mountains along the crest farther north. Second, ecologically, the portion of the Rio Grande basin within the DPS has greater affinity with the western United States than with the area east of the Rocky Mountains (Graham 1993; U.S. North American Bird Conservation Initiative (NABCI), *in litt.,* 2000; Pashley *et al.* 2000), whereas regions east of the DPS (lower Rio Grande) have greater affinity for the Great Plains and other eastern ecological regions. The riparian habitats in the Rio Grande of New Mexico and west Texas are similar to those occupied by yellow-billed cuckoos in other western regions, being dominated by Fremont cottonwood and willows, whereas most yellow-billed cuckoo habitat along the Pecos River in New Mexico historically lacked cottonwood forests, and today is dominated by non-native tamarisk trees, which have allowed an expansion of the cuckoo population along the Pecos River (W. Howe, pers. comm., 1999; Hunter *et al.* 1988; Ellis 1995). West Texas has been recognized by ecologists as part of a distinct ecological province or region, the Chihuahuan Desert, which is ecologically different from areas to the east which are not within the boundary of this DPS. In fact, the DPS boundary and Chihuahuan Desert boundary closely coincide in west Texas (e.g., see Chihuahuan Desert map at http://nasa.utep.edu/chih/chihdes.htm). Third, as discussed elsewhere in this finding, cuckoos nesting along the Rio Grande of west Texas and New Mexico behave as do other western cuckoos in the timing of their spring migration, arriving on their breeding grounds at least 3–4 weeks later than their eastern counterparts (Bailey 1928; Bent 1940; Oberholser and Kincaid 1974; Hughes 1999; Sproul *in litt* 2000). For these reasons, the crest of the Rocky Mountains presents a clearer geographic and biologic separation in New Mexico and west Texas, than does the Continental Divide.

In general, the western Great Plains region lacks suitable habitat and contributes to the separation between eastern and western yellow-billed cuckoos. However, the Great Plains are not a complete barrier to yellow-billed cuckoos because the species nests in riparian corridors that extend westward towards the Rocky Mountains along tributaries of the Mississippi and Missouri Rivers. These riparian corridors connect with extensive yellow-billed cuckoo habitat to the east that quite possibly support large yellow-billed cuckoo populations, notably in the bottomlands of the Mississippi River and its major tributaries. Thus, these corridors decrease the physical separation between yellow-billed cuckoos east and west of the Rocky Mountain crest. The effect of these corridors on gene flow and population interchange is unknown. Evidence from other bird species provide examples of boundaries between eastern and western taxa which meet and are maintained in the eastern Rocky Mountain-western Great Plains region (Gill 1989; Ehrlich *et al.* 1988). For example, the ranges of at least fourteen pairs of closely related eastern and western bird species meet in Great Plains, with minimal overlap between the species in most cases (Ehrlich *et al.* 1988). Although the yellow-billed cuckoo question does not involve separate species, this example suggests some underlying differences between eastern and western regions that may help maintain boundaries between species in the area of the Rocky Mountains-Great Plains.

More relevant to the question of separation of yellow-billed cuckoo populations are bird species for which recognized eastern and western bird subspecies meet along a north-south boundary in the Rocky Mountain-western Great Plains region. These species include several which, like the yellow-billed cuckoo, migrate south to neotropical wintering areas: Bell's vireo (*Vireo bellii*) (AOU 1957; Sibley 2000), yellow warbler (*Dendroica petechia*), yellow-rumped warbler (*D. coronata*), and yellow-breasted chat (*Icteria virens*) (Dunn and Garrett 1997). Of further interest and relevance to the question of separateness of western and eastern yellow-billed cuckoos is the evidence that eastern and western subspecies of several species of neotropical migrants winter in separate areas. These species include Bell's vireo (AOU 1957) and yellow warbler, orange-crowned warbler (*Vermivora celata*), Nashville warbler (*V. ruficapilla*), yellow-rumped warbler, Wilson's warbler, and yellow-breasted chat (Dunn and Garrett 1997). These examples indicate that the Rocky Mountains-western Great Plains region does serve to separate populations of other neotropical migrant birds sufficiently to maintain measurable, subspecific differences.

Little is known about the migratory paths of individual species or populations, but some evidence exists to support that eastern and western bird populations tend to follow different migratory paths. First, the primary migratory paths are north-south, parallel to the axis of the Rocky Mountains and most other western mountain ranges, and in general, bird migration in North America is primarily along four north-south routes or flyways (Pacific, Central, Mississippi, and Atlantic) (Ehrlich *et al.*

1988). Thus, eastern and western birds tend to follow distinct migration routes, with western (Pacific flyway) birds following different paths than Great Plains (Central Flyway) and eastern birds (Mississippi, Atlantic flyways). In addition, studies to date in Europe and North America indicate that migrating birds do respond to major topographic features such as mountain ranges (Walcott and Lednor 1983; Williams *et al.* 2001). We are not aware of migration route studies in the Rocky Mountains, but a recent study in the northern Appalachian Mountains found that southbound avian migrants oriented to topography (Williams *et al.* 2001). The authors of that study concluded that, as observed in the Alps of Europe, landforms have a significant guiding effect on migrating birds, with lower-flying birds tending to change course to fly parallel to mountain ridges, and to use passes when their migration route required crossing the axis of a range (Williams *et al.* 2001).

In our 90-day administrative finding for this petition (65 FR 8104), we discussed the fact that the yellow-billed cuckoo is a mobile species, migrating to South America during the non-breeding season. This mobility raises the question of whether 240 km (150 mi) of mountains poses a barrier to movement between populations east and west of the crest of the Rocky Mountains. We are unaware of scientific data which would allow us to directly address the effectiveness of the mountains as a physical separation between yellow-billed cuckoo populations, but some evidence bears on the question. We have already described the observation that a broad area of unsuitable habitat largely separates suitable, occupied habitat east and west of the crest of the Rocky Mountains. Also, many other bird species migrate between Central/South America and North America and have maintained discrete populations or subspecies, which are separated by the Rocky Mountains (Pitelka 1947; Udvardy 1963; Johnsgard 1986).

Data from movements of banded yellow-billed cuckoos provide no evidence of movement between eastern and western yellow-billed cuckoo populations, across the Rocky Mountain crest. Analyzing BBL banding data found that of a total of 8,673 banded yellow-billed cuckoos, of which 26 bands were recovered, no western birds were found east of the Rocky Mountain crest, nor eastern birds recovered west of the crest. While the data provide no evidence for movement between eastern and western yellow-billed cuckoo populations, the sample size is too small to adequately test the hypothesis that movement is limited between eastern and western regions. Only 251 yellow-billed cuckoos were banded in western States, with only one band recovery. Eight of the 26 recovered birds were found in a State different from where it was banded. Of these, only one significant displacement occurred on an east to west axis, for a bird banded in Iowa and recovered in Pennsylvania.

The extent to which yellow-billed cuckoos nesting in different regions of North America commingle during migration, or while overwintering, is unknown. Data provided by the BBL, from bird band returns to date is insufficient to determine migration or wintering patterns (BBL, *in litt.,* 1998). While some scientists have provided information supporting the hypothesis that yellow-billed cuckoos breeding in the western United States winter in different regions of South America than do yellow-billed cuckoos nesting east of the Rocky Mountains (R. Ridgely, *in. litt.* 2000; J. Hughes *in. litt.* 2000; S. Laymon *in. litt.* 2000), the information available is not sufficient to test the hypothesis.

Western yellow-billed cuckoos have historically occurred and/or still occur in several distinct ecoregions including the Great Basin, Sonoran Desert, Sonoran and Mohave Deserts, Northern Pacific Rainforest, Northern Rockies, Southern Rockies/Colorado Plateau, Coastal California, and Sierra Madre Occidental ecoregions (Graham 1993; NABCI, *in litt.,* 2000; Pashley *et al.* 2000). While these western ecoregions differ in many respects, they are joined by common factors, which also distinguish them from most eastern ecoregions within which yellow-billed cuckoos occur. Foremost among these is the fact that western yellow-billed cuckoo populations occur along narrow and patchy riparian corridors that provide suitable moist deciduous woodlands within otherwise unsuitable arid landscapes. By contrast, east of the Rocky Mountains, the yellow-billed cuckoo occurs in extensive bottomland forests in the Mississippi River and other drainages, as well in deciduous woodlands in non-riparian situations, including deciduous forests such as oak hickory forests, parks, and some suburban areas (Wilson 1999; Amundson *et al.*, *in litt.,* 2000).

Morphological, Physiological, Behavioral, and Genetic Discreteness

Data collected from publications and other sources demonstrate, to varying degrees of certainty, the existence of morphological, physiological, and behavioral differences between eastern and western yellow-billed cuckoos.

Based on the available information, the best evidence of behavioral/physiological differences between yellow-billed cuckoos populations west and east of the Rocky Mountain crest is differences in the timing of arrival during the spring migration, and the timing of nesting. Several authors have observed that western yellow-billed cuckoos arrive and nest substantially later than do eastern yellow-billed cuckoos (Hughes 1999; Franzreb and Laymon 1993; S. Laymon *in. litt.* 2000), while an Arizona study found less of a pattern, but noted that Arizona yellow-billed cuckoos appeared to nest several weeks later than California yellow-billed cuckoos (Hamilton and Hamilton 1965). Franzreb and Laymon (1993) and Hughes (1999) concluded that the nesting season in western States begins a full three to four weeks later than it does east of the Rocky Mountains, and that western yellow-billed cuckoos arrive on their breeding grounds 4 to 8 weeks later than do eastern yellow-billed cuckoos at similar latitudes. One scientist has also suggested that the breeding season of western birds is shorter than for eastern birds, due to later spring arrival and earlier fall departure, and that is evidence of evolved behavioral differences between eastern and western yellow-billed cuckoos (Hughes, *in. litt.* to K. Suckling, 2000).

We compared the timing of arrival on breeding grounds from several studies and concluded that there is at least a 3 to 4 week difference in the peak of migration and onset of nesting season, with eastern yellow-billed cuckoos being the earliest (Chapman 1903; Bent 1940; Franzreb and Laymon 1993; Hughes 1999; S. Laymon, *in litt.,* 2000). In our 90-day finding for this petition (65 FR 8104), we speculated that differences in timing of arrival on breeding grounds and in breeding could be the result of genetically-similar birds responding to local environmental cues. We believe this remains as one hypothesis for timing of breeding (Hamilton and Hamilton 1965), although the difference could also reflect genetic-based differences. In the case of timing of arrival on breeding grounds, comments received in response to the 90-day finding (S. Laymon *in. litt.*, 2000; J. Hughes *in. litt.* to K. Suckling, 2000; Amundson *et al., in litt.,* 2000) provide a persuasive argument that timing of arrival is more likely the result of an evolved response to east-west differences, via mechanisms likely under genetic control.

Other differences between yellow-billed cuckoos in the proposed western DPS and eastern yellow-billed cuckoos

exist and provide additional evidence of discreteness. For example, western yellow-billed cuckoos have larger egg size and weight (mass in grams), with thicker egg shells than the eastern yellow-billed cuckoo (Hughes 1999). This difference may correlate with potential higher egg water loss from hotter, dryer conditions in the west than the east (Hamilton and Hamilton 1965; Ar *et al.* 1974; Rahn and Ar 1974).

Eastern juveniles have been reported to have yellow bills (Oberholser and Kincaid 1974), while western juveniles in California are reported to have all-black bills (Franzreb and Laymon 1993). However, since bill color in juveniles changes from grayish, to yellow and black around the age of 60 days (Hughes 1999), this reported difference needs to be verified, taking into account juvenile age.

Western adult yellow-billed cuckoos have been reported to have an orange lower mandible, while eastern adults have a yellow lower mandible (Franzreb and Laymon 1993; S. Laymon, *in. litt.* 2000). No scientific data are available to verify this, and the reported difference has not been the subject of a published scientific study. However, Dr. Stephen Laymon has worked extensively with western yellow-billed cuckoos and is a species expert.

Western adults, on average, are larger and heavier than eastern adult birds. These differences are discussed above and in the literature (Banks 1988, 1990; Franzreb and Laymon 1993; Oberholser and Kincaid 1974), and are evidence of some degree of physical isolation. However, as discussed by Banks (1988, 1990), and in our 90-day administrative finding, the differences are not strong, and may be clinal. We believe that these differences merit further analysis, with greater sample sizes and using a greater number of morphological characteristics.

From the analysis of two different mtDNA genes (control region and ATP8) totaling 736 base pair sequences, Dr. Fleischer concluded that there was significant divergence in haplotype (set of genes that determine different antigens) frequencies between eastern and western samples, which suggests that they may not currently be exchanging many migrants (Fleischer 2001).

In view of the above information, we find that the available information supports the recognition of a western DPS of the yellow-billed cuckoo, as described, based on the physical, ecological, and behavioral discreteness of the population segment.

Significance

Under our DPS policy, once we have determined that a population segment is discrete, we consider its biological and ecological significance to the larger taxon to which it belongs. This consideration may include, but is not limited to, evidence of the persistence of the discrete population segment in an ecological setting that is unique for the taxon; evidence that loss of the population segment would result in a significant gap in the range of the taxon; evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; and evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics. Significance is not determined by a quantitative analysis, but instead is a qualitative finding. It will vary from species to species and cannot be reduced to a simple formula or flat percentage. We have found substantial evidence that three of these significance factors are met by the discrete population segment of yellow-billed cuckoos that occurs west of the Rocky Mountain crest.

Loss of the western yellow-billed cuckoo population segment would result in loss of the species from the United States west of the continental divide and the Rocky Mountain crest. This represents a loss of the species from about 28 percent of its historic range in the continental United States. If one assumes that the species is already extirpated from the States of Washington and Oregon, the loss would still exceed more than 20 percent of the species' current range, and recent records indicate that the species may still persist in small numbers in eastern Oregon. Because the proportion of the total suitable yellow-billed cuckoo habitat in the west is lower than the proportion of the range (because the cuckoo uses more narrowly circumscribed habitat types in the west than the east), we do not believe that loss of the species from the west would by itself require listing the species as a whole; however, we emphasize that the ''significant gap in the range'' analysis required for a DPS is different than the ''significant portion of the range'' analysis required for a listing decision for the entire species. We believe that loss of the species from the United States west of the continental divide and the Rocky Mountain crest would result in a significant gap in the range of the species as a whole.

We discussed above the manners in which the ecological setting used by western yellow-billed cuckoos differs fundamentally from that of eastern yellow-billed cuckoos, because of the western population segment's strong association with non-montane riparian woodlands, contrasting sharply with States east of the Rocky Mountains, where yellow-billed cuckoos nest across a much broader range of habitat conditions. In the western States, the yellow-billed cuckoo occurs primarily in arid regions where riparian woodlands, particularly those which include cottonwood trees as a dominant component, provide ecological conditions which are unique for the region. These conditions are essential to the survival of yellow-billed cuckoo in the west, as well as to the survival of many other riparian-dependent species (Hunter *et al.* 1987; Sanders and Edge 1998; Knopf and Samson 1994).

The western yellow-billed cuckoo populations have persisted over long periods, despite the small number of breeding pairs which breed in relatively isolated areas. Although site fidelity and dispersal patterns have not been studied, a limited number of banding returns from the yellow-billed cuckoo population on the South Fork Kern River in California indicate that adult birds return to the same nesting areas in subsequent years (S. Laymon, *in litt.*, 2000). Although the species is reported to have nomadic tendencies (Hughes 1999), the repeated return from South America each spring to relatively isolated breeding sites is strongly suggestive of site fidelity. A scenario of strong breeding site fidelity, and often isolated breeding populations, combined with most river reaches supporting very few (less than 20) breeding pairs, suggests that local western populations may constitute important isolated units. Under this same scenario, these units may contain important genetic and phenotypic diversity.

While recent analysis of the genetic differences between the eastern and western population segments of yellow-billed cuckoos (Fleischer 2001) indicates that these differences may not rise to the level typical of different subspecies, they do suggest that eastern and western populations are not now exchanging many migrants. Furthermore, analysis of the pattern of variation suggests that yellow-billed cuckoos may have recently (since the last glacial retreat) spread from a refugial population, released by habitat changes as the climate in North America warmed (Fleischer 2001). We believe that the existing western discrete

population segment of yellow-billed cuckoos may represent an early stage of evolutionary differentiation. Loss of this discrete population segment would result in the loss of genetic differences from eastern cuckoos.

Conclusion

We have evaluated as a DPS the population of western yellow-billed cuckoos from the portion of the United States west of the Rocky Mountain crest, addressing the two elements which our policy requires us to consider in deciding whether a vertebrate population may be recognized as a DPS and considered for listing under the Act. In assessing the population segment's discreteness from the remainder of the taxon, we have described the physical separation, ecological discreteness, behavioral discreteness as reflected in the timing of migration and nesting, and morphologic data. We considered distributional data, ecological, behavioral, morphologic and genetic information, information from banding returns, and geographic and biogeographic patterns and have concluded that this population segment is discrete under our DPS policy. In assessing the population segment's significance to the taxon to which it belongs, we have considered the available information, including the large geographic area represented by the western DPS, its ecological distinctness, which is typified by cottonwood-willow riparian woodlands upon which the western DPS largely depends for breeding, its genetic differences from other cuckoo populations in the eastern United States, and other considerations and factors discussed above. We have concluded that loss of the species from the portion of the United States west of the Rocky Mountain crest would represent a significant gap in the species' range, the loss of the species from a unique ecological setting, and the loss of genetic differences from eastern yellow-billed cuckoos. Therefore, as the population segment meets both the discreteness and significance criteria of our DPS policy, the DPS qualifies for consideration for listing. An evaluation of the level of threat to the DPS based on the five listing factors established by the Act to determine if listing of the DPS follows.

Summary of Factors Affecting the DPS

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act describes the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors, and their application to the yellow-billed cuckoo, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Principal causes of riparian habitat losses are conversion to agricultural and other uses, dams and river flow management, stream channelization and stabilization, and livestock grazing. Available breeding habitats for yellow-billed cuckoos have also been substantially reduced in area and quality by groundwater pumping, and the replacement of native riparian habitats by invasive non-native plants, particularly tamarisk (Groschupf 1987; Rosenberg *et al.* 1991). Estimates of riparian habitat losses include 90–95 percent for Arizona, 90 percent for New Mexico, 90–99 percent for California, and more than 70 percent nationwide (Noss *et al.* 1995; Ohmart 1994). Much of the remaining habitat is in poor condition and heavily affected by human use (U.S. Department of Interior 1994; Almand and Krohn 1978). Fragmentation effects include the loss of patches large enough to sustain local populations, leading to local extinctions, and the potential loss of migratory corridors, affecting the ability to recolonize habitat patches (Hunter 1996).

Dahl (1990) reviewed estimated losses of wetlands between 1780 and the 1980s in the Southwest: California is estimated to have lost 91 percent, Nevada 52 percent, Utah 30 percent, Arizona 36 percent, New Mexico 33 percent, and Texas 52 percent. As much as 90 percent of major lowland riparian habitat has been lost or modified in Arizona (State of Arizona 1990). Franzreb (1987) noted that ''(B)ottomland riparian forests are the most highly modified of natural landscapes in California.''

Much of the dramatic decline of the yellow-billed cuckoo in California has been directly attributed to breeding habitat loss from clearing and removal of riparian forest for agriculture, urban development and flood control (Gaines 1974; Gaines and Laymon 1984; Laymon and Halterman 1987b; Launer *et al.* 1990; Hughes 1999). Losses in the Central Valley alone have been relatively large, especially along the Valley's formerly free-flowing rivers such as the Sacramento where, under pristine conditions, broad overflow plains and dense riparian forests extended for up to 8 km (5 mi) from both banks (Service 2000). Following the most intense reclamation and development period, Kabitah (1984) estimated that Central Valley riparian forests had been reduced by more than 95 percent from historical condition and that a large proportion of remaining forests were in highly disturbed or degraded condition. A recent study of the San Joaquin River between Friant Dam and Merced River confluence found that between 1937 and 1993, the area of riparian forest and scrub decreased 28 percent, from 2,745 to 1,989 ha (6,787 to 4,914 ac) (Jones & Stokes Associates, Inc. 1998).

Suitable habitat for the yellow-billed cuckoo is very limited in Nevada with most areas of cottonwood riparian forests being fragmented (NDW, *in litt.*, 2001). Studies from Great Basin National Park (NPS, *in litt.*, 2001) in the South Snake Mountain Range determined that of the 190 ha (469 ac) of existing riparian habitat only 3 ha (8 ac) was suitable for supporting yellow-billed cuckoo. Most of the suitable habitat along the Truckee, Carson, and Walker Rivers has been modified or destroyed (NDW, *in litt.*, 1985, 1990).

Loss and modification of southwestern riparian habitats have occurred from urban and agricultural development, water diversion and impoundment, channelization, livestock grazing, off-road vehicle and other recreational uses, and hydrological changes resulting from these and other land uses. Rosenberg *et al.* (1991) noted that ''it is the cottonwood-willow plant community that has declined most with modern river management.'' Loss of the cottonwood-willow riparian forests has had widespread impact on the distribution and abundance of bird species associated with that forest type (Hunter *et al.* 1987; Hunter *et al.* 1988; Rosenberg *et al.* 1991).

Overuse by livestock has been a major factor in the degradation and modification of riparian habitats in the western United States. The effects include changes in plant community structure and species composition, and relative abundance of species and plant density. These changes are often linked to more widespread changes in watershed hydrology (Rea 1983; General Accounting Office (GAO) 1988). Livestock grazing in riparian habitats typically results in reduction of plant species diversity and density, especially of palatable broadleaf plants like willows and cottonwood saplings, and is one of the most common causes of riparian degradation (Carothers 1977; Rickard and Cushing 1982; Cannon and Knopf 1984; Klebenow and Oakleaf 1984; GAO 1988; Clary and Webster 1989; Schultz and Leininger 1990).

Increases in abundance of riparian bird species have followed reduction,

modification, or removal of cattle grazing. Krueper (1993) found the following increases in birds associated with cottonwood-willow habitat on Arizona's San Pedro River 4 years after the removal of livestock: yellow warbler, 606 percent; common yellow-throat, 2,128 percent; yellow-breasted chat, 423 percent. Bock *et al.* (1993) found that 40 percent of the riparian bird species they examined were negatively affected by livestock grazing. As shady, cool, wet areas providing abundant forage, they are disproportionately preferred by livestock over the surrounding xeric uplands (Ames 1977; Valentine *et al.* 1988; A. Johnson 1989). Harris *et al.* (1986) believed that termination of grazing along portions of the South Fork of the Kern River in California was responsible for increases in riparian vegetation.

Another likely factor in the loss and modification of the habitat for yellow-billed cuckoo is the invasion by the non-native tamarisk. Tamarisk was introduced into western North America from the Middle East in the late 1800s as an ornamental windbreak and for erosion control. It has spread rapidly along southwestern watercourses, typically at the expense of native riparian vegetation, especially cottonwood/willow communities. Although tamarisk is present in nearly every southwestern riparian community, its dominance varies. It has replaced some communities entirely, but occurs at a low frequency in others.

The spread and persistence of tamarisk has resulted in significant changes in riparian plant communities. In monotypic tamarisk stands, the most striking change is the loss of community structure and diversity. The multilayered community of herbaceous understory, small shrubs, middle-layer willows, and overstory deciduous trees is often replaced by one monotonous layer. Plant species diversity has declined in many areas, and relative species abundance has shifted in others. Other effects include changes in percent cover, total biomass, fire cycles, thermal regimes, and perhaps insect fauna (Kerpez and Smith 1987; Carothers and Brown 1991; Rosenberg *et al.* 1991; Busch and Smith 1993).

Disturbance regimes imposed by man (e.g., grazing, water diversion, flood control, woodcutting, and vegetation clearing) have facilitated the spread of tamarisk (Behle and Higgins 1959; Kerpez and Smith 1987; Hunter *et al.* 1988; Rosenberg *et al.* 1991). Cattle find tamarisk unpalatable. However, they eat the shoots and seedlings of cottonwood and willow, acting as a selective agent to shift the relative abundance of these species (Kerpez and Smith 1987). Degradation and, in some cases, loss of native riparian vegetation lowered the water table and has resulted in the loss of perennial flows in some streams. With its deep root system and adaptive reproductive strategy, tamarisk thrives or persists where surface flow has been reduced or lost. Further, tamarisk establishment often results in a self-perpetuating regime of periodic fires, which were uncommon in native riparian woodlands (Busch and Smith 1993).

Manipulation of perennial rivers and streams has resulted in habitats that tend to allow tamarisk to out-compete native vegetation. Construction of dams created impoundments that destroyed native riparian communities. Dams also eliminated or changed flood regimes, which were essential in maintaining native riparian ecosystems (Vogl 1980; Richter and Richter 2000). Changing (usually eliminating) flood regimes provided a competitive edge to tamarisk. In contrast to native, deep-rooted species, tamarisk does not need floods and is intolerant of submersion when young. Diversion of water caused the lowering of near-surface groundwater and reduced the relative success of native species in becoming established. Irrigation water containing high levels of dissolved salts also favors tamarisk, which is more tolerant of high salt levels than most native species (Kerpez and Smith 1987; Busch and Smith 1993).

Conversion to tamarisk typically coincides with reduction or complete loss of bird species strongly associated with cottonwood-willow habitat, including the yellow-billed cuckoo (Hunter *et al.* 1987; Hunter *et al.* 1988; Rosenberg *et al.* 1991). While Brown and Trosset (1989) believed tamarisk may serve as an ''ecological equivalent'' to native vegetation, they noted that their study occurred where a tamarisk community became established where no native equivalent existed before. This is especially evident along the Pecos River in Texas (Hunter *et al.* 1988).

Water developments also likely reduced and modified yellow-billed cuckoo habitat. The series of dams along most major southwestern rivers (Colorado, Gila, Salt, Verde, Rio Grande, Kern, San Diego, and Mojave) have altered riparian habitats downstream of dams through hydrological changes, vegetational changes, and inundated habitats upstream. New habitat is sometimes created along the shoreline of reservoirs, but this habitat (often tamarisk) is often unstable because of fluctuating levels of regulated reservoirs (Grinnell 1914; Phillips *et al.* 1964; Rosenberg *et al.* 1991).

Diversion and channelization of natural watercourses are also likely to have reduced yellow-billed cuckoo habitat. Diversion results in diminished surface flows and increased salinity of residual flows. Consequent reductions and composition changes in riparian vegetation are likely. Channelization often alters stream banks and fluvial dynamics necessary to maintain native riparian vegetation (Vogl 1980; Richter and Richter 2000).

River channelization, construction of levees close to the river, and riprap along the levees have fragmented riparian habitat along the Sacramento River and disrupted the ecological processes which both renew and restore riparian and aquatic habitats (Laymon and Halterman 1987a; Halterman 1991; Service 2000). More than one-half of the Sacramento River's banks within the lowermost 312 km (194 mi) of river have been riprapped over the last four decades (Service 2000). The result is that much of the River's remaining riparian habitat now occurs in the form of narrow disconnected linear patches (Service 2000; Halterman *et al.* 2001), unsuitable for yellow-billed cuckoo nesting (Gaines 1974). This may be due to the loss of continuous migration corridors, lack of patches of adequate size for nesting, and the species' inability to use highly isolated patches (Halterman 1991). Exacerbating such problems is the fact that the yellow-billed cuckoo now, for unknown reasons, utilizes a narrower range of habitats in California, now predominantly cottonwood-willow complex, than it did historically (Laymon and Halterman 1987b).

The yellow-billed cuckoo is considered very vulnerable from deforestation of its wintering grounds (Morton 1992), and while losses of neotropical forests and woodlands have been substantial and ongoing, particularly in Central America and northern South America (Hartshorn 1992; Brown and Lomolino 1998), the relationship between overwintering habitat and yellow-billed cuckoo populations has not been studied or documented.

B. *Over-utilization for commercial, recreational, scientific, or educational purposes.* We are unaware of threats resulting from overutilization.

C. *Disease or predation.* We are unaware of any disease or predation that constitutes a significant threat to yellow-billed cuckoos. However, adults have been preyed upon by falcons (Hector 1985; Bob Altman, North American Bird Conservation Initiative,

Northern Pacific Rain Forests Region, Oregon, pers. comm., 2001), and nestlings have been taken by hawks, jays, grackles (Launer *et al.* 1990; Nolan and Thompson 1975), and by various snake and mammal species (Nolan 1963). In eastern Mexico, adults are frequently attacked by raptors during migration (J.K. Wilson, pers. comm., in Hughes 1999; Wilson 1999). In a recent study of 252 yellow-billed cuckoo nests in Arkansas, predation accounted for 91 percent of all nest failures, with small mammals, birds, and reptiles depredating the greatest proportion (Wilson 1999).

D. *The inadequacy of existing regulatory mechanisms.* The Migratory Bird Treaty Act (MBTA) (16 U.S.C. Sec. 703–712) is the only current Federal protection provided the yellow-billed cuckoo. The MBTA prohibits ''take'' of any migratory bird, which is defined as: ''* * * to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect * * * .'' However, unlike the Endangered Species Act, there are no provisions in the MBTA preventing habitat destruction unless direct mortality or destruction of active nests occurs.

The majority of the occupied areas west of the Continental Divide for the yellow-billed cuckoo lies within California, Arizona, and New Mexico (Hughes 1999). Only California classifies the yellow-billed cuckoo as endangered (California Department of Fish and Game (CDFG) 2001). In Arizona, the species was formerly State-listed as threatened, but is now considered a Wildlife of Concern, a designation which the Arizona Game and Fish Department now uses for wildlife instead of ''threatened''. Neither its past status as threatened nor its current status as a species of concern confers any protection to the species in Arizona. The bird has no special protective status in Wyoming, New Mexico, Colorado, Idaho, or Texas (Groschupf 1987), and habitat protection or protection of individuals is not provided beyond existing regulations on capture, handling, transportation, and take of native wildlife. Utah considers the yellow-billed cuckoo as threatened. In Nevada, the yellow-billed cuckoo is identified as critically imperiled due to extreme rarity, imminent threats, or biological factors, and is proposed for protection as threatened. The California Endangered Species Act (CESA) prohibits unpermitted possession, purchase, sale, or take of listed species. However, the CESA definition of take does not include harm, which under the Act can include destruction of habitat that actually kills or injures wildlife by significantly impairing essential behavioral patterns (50 CFR 17.3). CESA does require consultation between the CDFG and other State agencies to ensure that activities of State agencies will not jeopardize the continued existence of State-listed species (CERES, *in litt.*, 2001). Yellow-billed cuckoos have no State status in Oregon because it has not been considered an active breeding species since the 1940s (B. Alterman, pers. comm., 2001). In Washington, the yellow-billed cuckoo is considered critically imperiled (five or fewer occurrences). However, no active nesting has been documented since the 1930s. We believe that these, and other regulatory mechanisms, are inadequate to ensure the continued existence of the western DPS of yellow-billed cuckoo.

E. *Other natural or human caused factors affecting the DPS' continued existence.* Environmental, demographic, and genetic vulnerability to random extinction are recognized as interacting factors that might contribute to a population's extinction (Hunter 1996). The riparian habitat on which the yellow-billed cuckoo depends has been reduced and degraded throughout the western continental U.S. Its habitat rarity and small, isolated populations make the remaining yellow-billed cuckoo populations in this region increasingly susceptible to local extirpation through stochastic events such as floods, fire, predation, depredation, and land development.

Brood parasitism by the brown-headed cowbird (*Molothrus ater*) has been documented only six times (Wilson, *in litt.*, 1999; Friedmann 1971), and less so by the bronzed cowbird (*Molothrus aeneus*) (Clotfelter and Brush 1995). With an incubation period of 10–13 days, and fledging in 10–11 days, the brown-headed cowbird requires more development time before fledging than the yellow-billed cuckoo. Therefore, successful parasitism of yellow-billed cuckoo nest by brown-headed cowbird is unlikely (Ehrlich *et al.* 1988).

In addition to destruction and degradation of riparian habitats, pesticides may affect yellow-billed cuckoo populations (Groschupf 1987; Hughes 1999). Although the evidence is too limited to evaluate this effect, it warrants further study. In areas where riparian habitat borders agricultural lands, such as in California's Central Valley, pesticide use may affect yellow-billed cuckoos indirectly by reducing prey numbers, or directly by poisoning nestlings if sprayed in areas where the birds are nesting (Laymon and Halterman 1987b).

Accumulation of chlorinated hydrocarbon pesticides, particularly DDT, has affected other bird species, particularly top predators (Robinson and Bolen 1989). Although DDT use has been banned in the United States since 1972, yellow-billed cuckoos may be exposed to DDT on wintering grounds where DDT use has not been banned. Analysis of two eggs collected in California in 1979 showed very low levels of DDE, a stable metabolite of DDT, but eggshell fragments collected in 1985 from three nests along the South Fork of the Kern River in California averaged 19 percent thinner than pre-DDT era eggshells (Laymon and Halterman 1987b). DDT has caused eggshell thinning in other bird species, but its role in the Kern River observations is unknown.

Finding

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species. We reviewed the petition, information available in our files, other published and unpublished information submitted to us during the public comment period following our 90-day petition finding, consulted with recognized yellow-billed cuckoo experts, avian molecular geneticists, and other Federal, State, and Tribal resource agencies throughout the country. On the basis of the best scientific and commercial information available, we find that listing the yellow-billed cuckoo western DPS as threatened is warranted, but precluded by higher priority listing actions.

In making this finding, we recognize that there have been declines in the distribution and abundance of yellow-billed cuckoos throughout the western States, primarily attributed to habitat loss, degradation and fragmentation, overgrazing, replacement of native riparian woodland species by tamarisk and other non-native plants, and river management, including altered flow and sediment regimes, and flood control practices, such as channelization and bank protection.

We conclude that the overall magnitude of threats to the western yellow-billed cuckoo DPS is high, and that the overall immediacy of these threats is non-imminent. Pursuant to our Listing Priority Guidance (64 FR 7114), a DPS for which threats are high but non-imminent is assigned a Listing Priority Number of 6. While we conclude that listing the western DPS of the yellow-billed cuckoo is warranted, an immediate proposal to list is precluded by other higher priority listing actions. During this fiscal year,

2001, we must spend nearly all of our Listing Program funding to comply with court orders and judicially approved settlement agreements, which are now our highest priority actions. The western DPS of the yellow-billed cuckoo will be added to the list of candidate species upon publication of this notice of 12-month finding. We will continue to monitor the status of this species and other candidate species. Should an emergency situation develop with one or more of the species, we will act to provide immediate protection, if warranted.

We intend that any proposed listing action for the yellow-billed cuckoo western DPS will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding. Before we proceed with listing the yellow-billed cuckoo we will solicit a scientific peer review of the DPS boundary.

References Cited

A complete list of references cited herein, as well as others, is available upon request from the Sacramento Fish and Wildlife office (see **ADDRESSES** section).

Author

This document was prepared by the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Authority

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

Dated: July 18, 2001.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 01–18560 Filed 7–24–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010710172–1172–01; I.D. 061301A]

RIN 0648–AL92

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a change in the Community Development Quota (CDQ) regulations for crab to allow the State of Alaska greater flexibility in establishing fishing seasons. This action is proposed to achieve the conservation and management goals for the crab CDQ program and is intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Fishery Management Plan for the Bering Sea and Aleutian Islands King and Tanner Crabs (FMP).

DATES: Comments on the proposed rule must be submitted on or before August 24, 2001.

ADDRESSES: Comments on this proposed rule should be submitted to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Comments may also be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK. Copies of the Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Draft EA/RIR/IRFA) prepared for this action are available from NMFS (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907-586-7228, or gretchen.harrington@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act required the North Pacific Fishery Management Council (Council) and NMFS to establish a CDQ program under which a percentage of the guideline harvest level (GHL) of Bering Sea and Aleutian Island (BSAI) crab fisheries is allocated to the program. In 1998, NMFS issued regulations implementing the crab CDQ program (50 CFR 679.31; 63 FR 8356, February 19, 1998) and crab CDQ fisheries began that year. Section 305(i)(1)(C)(iii) of the Magnuson-Stevens Act required that 7.5 percent of the total allowable catch of each crab fishery for 2000 and beyond shall be allocated to the crab CDQ program.

Under the FMP, the Council and NMFS defer management of the BSAI king and Tanner crab fisheries, including the CDQ fisheries, to the State of Alaska (State), with Federal oversight. The State/Federal cooperative management regime established in the FMP specifies three categories of management measures that provide the framework for the State management of the crab fisheries, including the determination of the GHLs and fishery seasons. The FMP also provides the State with the authority to manage CDQ crab harvesting activity, including when CDQ fishermen may harvest the CDQ reserve.

The State sets crab fishing seasons according to a shellfish management cycle based on stock assessment surveys conducted in the summer and establishes GHLs for the upcoming fall and winter fishing seasons according to those surveys. The CDQ reserve is a portion of the GHL. Currently, CDQ crab fisheries are conducted after the regular commercial fishery; however, State regulations provide the regulatory flexibility to conduct a CDQ fishery before the regular commercial fishery for snow crab (*Chionoecetes opilio*).

Although Federal regulations implementing the crab CDQ reserve specify that the crab CDQ reserves be allocated by calendar year, the Magnuson-Stevens Act does not dictate when the reserve is available for harvest, only that the reserve be a portion of the annual harvest amount. By allocating to the crab CDQ reserve on a calendar year basis, the State is prevented from conducting a CDQ crab season before the regular commercial fishery for snow crab because of the timing of the snow crab fishing season. The regular commercial fishery for snow crab starts on January 15 and ends when the GHL is harvested. Additionally, State stand-down provisions prohibit vessels that intend to participate in the snow crab fishery from being on the fishing grounds 14 days prior to the opening of the fishery. Thus, a CDQ season before the regular snow crab fishery could only start in December of the previous calendar year.

Existing Federal regulations do not prevent a CDQ fishery before the regular commercial fishery for crab species other than snow crab because these crab fisheries are prosecuted at times of the year such that a CDQ fishery could occur before the regular fishery in the same calendar year.

In October 1998, NMFS proposed to the North Pacific Fishery Management Council (Council) that the Federal regulatory language that specified crab CDQ reserves by ''calendar year'' be changed to allow the State more flexibility in managing the crab CDQ harvests. The Council agreed that NMFS should change the Federal regulations.

This proposed regulatory amendment would change the Federal regulation at 50 CFR 679.31 (d) by removing the phrase ''calendar year''. The CDQ reserve would still be apportioned annually based on the GHLs derived from the annual stock assessments. However, the CDQ reserve would be available for harvest before January 1 to follow the annual cycle for crab fisheries used by the State rather than the calendar year cycle used by NMFS for groundfish fisheries. This proposed change is consistent with the intent of the FMP by providing the State with greater flexibility to establish CDQ fishing seasons. This proposed action also would remove the expired CDQ reserve phase-in language.

Classification

NMFS prepared a draft EA/RIR/IRFA for this regulatory amendment that describes the management background, the purpose and need for action, the management alternatives, and the socio-economic impacts of the alternatives (see ADDRESSES). It estimates the total number of small entities that would be affected by this action, and analyzes the economic impact on those small entities as required by the Regulatory Flexibility Act (RFA). The IRFA describes the potential economic impacts this proposed rule, if adopted, would have on small entities. A summary of the IRFA follows:

The regulatory change proposed by this action would have no direct effects, in and of itself, although it is intended to provide added management flexibility. With this Federal regulatory change, the State may choose to conduct a CDQ fishing season before a regular commercial fishery for snow crab.

NMFS considers most of the fishing operations that would be affected by this proposed rule to be small entities. The universe of small entities is composed of the 339 regular commercial fishermen who hold licenses to operate catcher vessels with snow crab endorsements, the 65 villages that participate in the CDQ program, and the 6 CDQ groups, for a total of 410 small entities. For the purposes of the IRFA, NMFS assumes that all of the catcher vessels belong to small entities, while the 34 operators of licensed catcher processors with snow crab endorsements are not small entities. At present, however, information on ownership, affiliation, and contractual relationships between and among the catcher vessels is insufficient to allow definitive enumerations of which of these operations are, or are not ''small entities'' for RFA purposes.

The IRFA shows that the status quo alternative adversely impacts the 65 villages and 6 CDQ groups by preventing them from realizing the full value of their snow crab CDQ allocation. On the other hand, the 339 regular commercial fishermen may experience adverse impacts from the proposed alternative due to the disadvantage of fishing for snow crab after approximately 2.25 percent of the GHL has been harvested.

This proposed rule does not contain a collection-of-information requirement subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act (PRA). This proposed rule does not duplicate, overlap, or conflict with other Federal regulations.

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

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 20, 2001.

John Oliver

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

For reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.31, paragraph (d) is revised to read as follows:

§ 679.31 CDQ reserves.

* * * * *

(d) *Crab CDQ reserves.* For those king and Tanner crab species in the Bering Sea and Aleutian Islands Area that have a guideline harvest level specified by the State of Alaska, 7.5 percent of the annual guideline harvest level for each fishery is apportioned to a crab CDQ reserve.

* * * * *

[FR Doc. 01–18575 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 143
Wednesday, July 25, 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

Animal and Plant Health Inspection Service

[Docket No. 00–096–1]

National Wildlife Services Advisory Committee; Notice of Intent To Reestablish

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent.

SUMMARY: We are giving notice that the Secretary of Agriculture intends to reestablish the National Wildlife Services Advisory Committee (the Committee) for a 2-year period. The Secretary of Agriculture has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Mr. Martin Mendoza, Director, Operational Support Staff, Wildlife Services, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; (301) 734–7921.

SUPPLEMENTARY INFORMATION: The purpose of the National Wildlife Services Advisory Committee is to advise the Secretary of Agriculture on policies, program issues, and research needed to conduct the Wildlife Services program. The Committee also serves as a public forum enabling those affected by the Wildlife Services program to have a voice in the program's policies.

Done in Washington, DC, this 19th day of July 2001.

Lou Gallegos,

Assistant Secretary for Administration.

[FR Doc. 01–18547 Filed 7–24–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

PBA–34 Bayou L'Ours Ridge Hydrologic Restoration Project, Lafourche Parish, LA

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bayou L'Ours Hydrologic Restoration Project, Lafourche Parish, Louisiana.

FOR FURTHER INFORMATION, CONTACT: Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302; telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of the federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that preparation and review of an environmental impact statement is not needed for this project.

The project will reduce wetland loss and restore, at least partially, the hydrologic integrity of the Bayou L'Ours Ridge area. This will be accomplished by the installation of two (2) fixed crest weirs with boat bays, one (1) fixed crest weir with a barge bay, five (5) earthen plugs with slope protection, and approximately 4,800 linear feet of spoil bank restoration, and maintenance and restoration of existing features vital to the integrity of maintaining a hydrologic boundary.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data collected during the environmental assessment are on file and may be reviewed by contacting Donald W. Gohmert.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 01–18450 Filed 7–24–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

TE–39 South Lake Decade Freshwater Introduction Project, Terrebonne Parish, Louisiana

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the South Lake Decade Freshwater Introduction Project, Terrebonne Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302; telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of the federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that preparation and review of an environmental impact statement is not needed for this project.

The document evaluates the potential impacts of diverting lower salinity water

from Lake Decade southward, improving the distribution and retention of diverted water, and maintaining the hydrologic integrity of the south shore embankment of Lake Decade. The project area encompasses approximately 7,343 acres of marsh and open water habitat. Project features include the installation of three multi-gated diversion structures; approximately 8,700 feet of shoreline protection along the south shore of Lake Decade; two low-level fixed crested weirs; one armored plug closure; enlarging approximately 2,500 feet of Lapeyrouse Canal; restoring 2,900 feet of oilfield embankment; and implementing vegetative protection measures.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data collected during the environmental assessment are on file and may be reviewed by contacting Donald W. Gohmert.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 01–18449 Filed 7–24–01; 8:45 am]

BILLING CODE 3410–16–U

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to the Natural Resources Conservation Service's National Handbook of Conservation Practices

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture, New York State Office.

ACTION: Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices, Section IV of the New York State Field Office Technical Guide (FOTG) for review and comment.

SUMMARY: It is the intention of NRCS to issue two revised conservation practice standards in its National Handbook of Conservation Practices. These revised standards are: Nutrient Management (NY590) and Waste Utilization (NY633).

DATES: Comments will be received on or before August 24, 2001.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Wayne M. Maresch, State Conservationist, Natural Resources Conservation Service, (NRCS), 441 S. Salina Street, Fifth Floor, Suite 354, Syracuse, New York, 13202–2450.

A copy of these standards is available from the above individual.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agricultural Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State Technical Guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS regarding disposition of those comments and final determination of change will be made.

Dated: June 20, 2001.

Wayne M. Maresch,

State Conservationist, Natural Resources Conservation Service, Syracuse, NY.

[FR Doc. 01–18451 Filed 7–24–01; 8:45 am]

BILLING CODE 3410–16–U

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).

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 6/19/01–7/16/01

Firm name	Address	Date petition accepted	Product
Chami Design, Inc	725 East 25th Street, Tacoma, WA 98421	06/25/01	Fleece jackets & toys.
W. Kintz Plastics, Inc	1 Caverns Road, Howes Cave, NY 12092	06/27/01	Thermoformed, machined & fabricated work station table tops & console doors of plastic.
Hydroacoustics, Inc	999 Lehigh Station Road, Rochester, NY 14692.	06/27/01	Underwater hydraulic & acoustic systems.
American Hofmann, Inc	3700 Cohen Place, Lynchburg, VA 24506	06/27/01	Precision hard bearing balancing machines.
Meramec Group, Inc. (The)	338 Ramsey Street, Sullivan, MO 63080	06/27/01	Polyurethane shoe outsoles.
Complete Packaging Corporation	2001 Hutchings, Ballinger, TX 76821	06/28/01	Corrugated boxes.
Ranchers Lamb of Texas	1005 City Farm Road, San Angelo, TX 76905.	06/28/01	Lamb meat.
Pratt & Austin Company, Inc	642 South Summer Street, Holyoke, MA 01040.	06/28/01	Greeting & post cards.
Gammapar LLC	1191 Venture Drive, Forest, VA 24551	06/28/01	Wood flooring.
B & P Industrial, Inc. dba Remwood Products.	4649 83rd East Avenue, Tulsa, OK 74145	06/29/01	Window detergent.
Roperunner, Inc	7011 East 40th Street, Tulsa, OK 74145	06/28/01	Footwear of outer soles of rubber for women.
Phi Technologies	4605 North Stiles, Oklahoma City, OK 73105.	06/29/01	Audio tape recorder player equipment.
Cherokee Process Color, Inc	1715 East 2nd Street, Tulsa, OK 74145	06/29/01	Display posters.
By Prather, Inc	200 South Main, Moorland, OK 73852	06/29/01	Billiard cues & parts.

Firm name	Address	Date petition accepted	Product
Conrad-Jarvis Corporation	217 Conant Street, Pawtucket, RI 02862	07/02/01	Braided, non-braided, woven & knit narrow fabrics of elastic & non-elastic material.
Floral Resources/Hawaii, Inc	175 East Kawailani Street, Hilo, HI 96720	07/03/01	Tropical flowers, anthuriums & orchids, & foliage.
R & D Circuits, Inc	9 Olsen Avenue, Edison, NJ 08846	07/16/01	Printed circuit boards.
Oconomowoc Manufacturing Corp	425 S. Lapham, Street Oconomowoc, WI 53066.	07/16/01	Ball bearings.
Stronglite, Inc	255 Davidson Street, Cottage Grove, OR 97424.	07/16/01	Wood & metal tables & chairs used in the massage industry.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 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, D.C. 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: July 17, 2001.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 01–18461 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–810) (A–475–816) (C–475–817) (A–588–835) (A–580–825) (A–201–817]

Continuation of Countervailing and Antidumping Duty Orders on Oil Country Tubular Goods From Argentina, Italy, Japan, Korea and Mexico, and Partial Revocation of Those Orders From Argentina and Mexico With Respect to Drill Pipe

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of continuation of countervailing and antidumping duty orders on oil country tubular goods from Argentina, Italy, Japan, Korea and Mexico, and partial revocation of those orders from Argentina and Mexico with respect to drill pipe.

SUMMARY: The Department of Commerce (''the Department''), pursuant to sections 751(c) of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the countervailing duty order on oil country tubular goods (''OCTG'') from Italy, and the antidumping duty orders on OCTG from Argentina, Italy, Japan, Korea and Mexico would be likely to lead to continuation or recurrence of a countervailable subsidy and dumping.[1]

On July 10, 2001, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the countervailing duty order on OCTG other than drill pipe from Italy,[2] the antidumping duty orders on OCTG other than drill pipe from Argentina, Italy, Korea, and Mexico, and the antidumping duty order on OCTG, inclusive of drill pipe, from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (66 FR 35997 (July 10, 2001)). The Commission also determined that partial revocation of the antidumping duty orders on OCTG with respect to drill pipe from Argentina and Mexico would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (66 FR 35997 (July 10, 2001)).

Pursuant to 751(d)(2) of the Act and 19 CFR 351.218(f)(4), the Department is publishing this notice of the continuation of the countervailing duty order on OCTG other than drill pipe from Italy, the antidumping duty orders on OCTG other than drill pipe from Argentina, Italy, Korea and Mexico, and the antidumping duty order on OCTG, inclusive of drill pipe, from Japan.

In addition, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the Department is revoking, in part, the antidumping duty orders on OCTG from Argentina and Mexico with respect to drill pipe. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(i) the effective date of this partial revocation of the order on OCTG from Argentina and Mexico is August 11, 2000 (the fifth year after the date of publication of the order).

EFFECTIVE DATE: July 25, 2001.[3]

[1] See Oil Country Tubular Goods (''OCTG'') From Italy; Final Results of Sunset Review of Countervailing Duty Order, 66 FR 13910 (March 8, 2001), Oil Country Tubular goods (''OCTG'') From Mexico; Final Results of Sunset Review of Antidumping Duty Order, 66 FR 14131 (March 9, 2001), and Final Results of Expedited Sunset Reviews; Oil Country Tubular Goods From Argentina, Italy, Japan, and Korea, 65 FR 66701 (November 7, 2000).

[2] In the original investigation, the ITC in its final determination determined the like products to be drill pipe and OCTG other than drill pipe. In addition, in its original investigation the ITC went negative on drill pipe from Italy and Korea. See USITC Publication 3434 (June 2001), Investigation Nos. 701–TA–364, 731–TA–711, and 713–716 (Reviews), p.5.

[3] The effective date for the continuation of the orders is the date of publication of this Federal Regisater notice. The effective date for the partial revocations is August 11, 2000 (the fifth yaer after the date of publication of the order).

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2000, the Department initiated (65 FR 41053), and the Commission instituted (65 FR 41088), sunset reviews of the countervailing duty order on OCTG from Italy, and the antidumping duty orders on OCTG from Argentina, Italy, Japan, Korea and Mexico pursuant to section 751(c) of the Act. As a result of these reviews, the Department found that revocation of the countervailing and the antidumping duty orders would be likely to lead to continuation or recurrence of a countervailable subsidy and dumping, and notified the Commission of the magnitude of the margins likely to prevail were the orders revoked.[4]

On July 10, 2001, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the countervailing duty order on OCTG other than drill pipe from Italy, the antidumping duty orders on OCTG other than drill pipe from Argentina, Italy, Korea and Mexico, and antidumping duty order on OCTG from Japan, inclusive of drill pipe, would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5] The Commission also determined that partial revocation of the antidumping duty orders on OCTG from Argentina and Mexico with respect to drill pipe, would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[6]

Scope of Orders: See Appendix.[7]

Determinations

As a result of the determinations by the Department and the Commission that revocation of the countervailing and antidumping duty orders would be likely to lead to continuation or recurrence of a countervailable subsidy, dumping, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the countervailing and antidumping duty orders on OCTG other than drill pipe from Argentina, Italy, Korea and Mexico, and the continuation of the antidumping duty order on OCTG, inclusive of drill pipe, from Japan. The effective date of continuation of the orders of the countervailing duty order on OCTG other than drill pipe from Italy, the antidumping duty orders on OCTG other than drill pipe on Argentina, Mexico, Italy, and Korea, and on OCTG, inclusive of drill pipe, from Japan will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of these orders not later than June 2006.

With respect to drill pipe from Argentina and Mexico, as a result of the determination by the Commission that revocation is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act is revoking, in part, the antidumping duty orders on OCTG from Argentina and Mexico for drill pipe. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(i), revocation is effective August 11, 2000 (the fifth year after the date of publication of the order). The Department will instruct the Customs Service to discontinue the suspension of liquidation and collection of cash deposit rates on entries of the subject merchandise entered or withdrawn on or after August 11, 2000. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: July 17, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

Appendix; Scope of Orders

Italy OCTG Other Than Drill Pipe (A–475–816)(C–475–817)

Oil country tubular goods are hollow steel products of circular cross-section, including only oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (''API'') or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The products subject to this order are currently classified in the following Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of these orders is dispositive.

Japan OCTG (A–588–835)

Oil country tubular goods are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (''API'') or non-API specifications, whether finished or unfinished (including green tubes and limited-service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this order are currently classified in the following HTSUS subheadings: 7304.21.30.00, 7304.21.60.30, 7304.21.60.45, 7304.21.60.60. 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75,

[4] See Oil Country Tubular Goods (''OCTG'') From Italy; Final Results of Sunset Review of Countervailing Duty Order, 66 FR 13910 (March 8, 2001), Oil Country Tubular goods (''OCTG'') From Mexico; Final Results of Sunset Review of Antidumping Duty Order, 66 FR 14131 (March 9, 2001), and Final Results of Expedited Sunset Reviews; Oil Country Tubular Goods From Argentina, Italy, Japan, and Korea, 65 FR 66701 (November 7, 2000).

[5] *See Oil Country Tubular Goods from Argentina, Italy, Japan, Korea, and Mexico,* 66 FR 35997 (July 10, 2001) and USITC Publication 3434 (June 2001), Investigation Nos. 701–TA–364, 731–TA–711, and 713–716 (Reviews).

[6] Id.

[7] The original scope of the antidumping and countervailing duty orders with respect to Argentina, Japan, and Mexico contains drill pipe. The Commission determined that drill pipe was a separate like product and, consequently made separate determinations as to whether the revocation of the orders with respect to drill pipe would lead to the continuation or recurrence of injury to a U.S. industry. Because the Commission's determinations were negative with respect to drill pipe from Argentina and Mexico, the Department has altered the scope language to eliminate drill pipe and its associated HTSUS numbers with respect to those orders.

7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

Korea OCTG Other Than Drill Pipe (A–580–825)

Oil country tubular goods are hollow steel products of circular cross-section, including only oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (''API'') or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The products subject to this order are currently classified in the following HTSUS subheadings: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

Argentina OCTG Other Than Drill Pipe (A–357–810)

Oil country tubular goods are hollow steel products of circular cross-section, including oil well casing and tubing of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (''API'') or non-API specifications, whether finished or unfinished (including green tubes and limited-service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The OCTG subject to this order are currently classified in the following HTSUS subheadings: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

Mexico OCTG Other Than Drill Pipe (A–201–817)

The merchandise covered by this order are oil country tubular goods, hollow steel products of circular cross-section, including oil well casing and tubing of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to API or non-API specifications, whether finished or unfinished (including green tubes and limited-service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The OCTG subject to this order are currently classified in the HTSUS under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The Department has determined that couplings, and coupling stock, are not within the scope of the antidumping order on OCTG from Mexico. See Letter to Interested Parties; Final Affirmative Scope Decision, August 27, 1998. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this order is dispositive.

[FR Doc. 01–18565 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–810]

Notice of Final Determination of Sales At Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate From Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: The Department of Commerce is conducting an antidumping duty investigation of solid agricultural grade ammonium nitrate from Ukraine. We determine that sales have been made at less than fair value. The dumping margin for J.S.C. ''Concern'' Stirol is 156.29 percent. The Ukraine-wide rate, which is applicable to all other producers/exporters, including the non-responding company, Open Joint Stock Company ''AZOT'' Cherkassy, is 156.29 percent.

EFFECTIVE DATE: July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder, Melani Miller, or Anthony Grasso, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0189, (202) 482–0116, or (202) 482–3853, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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 (''the Department'') regulations are to the regulations at 19 CFR part 351 (April 2000).

Case History

Since the publication of the preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Solid Agricultural Grade Ammonium Nitrate from Ukraine,* 66 FR 13286 (March 5, 2001) (''*Preliminary Determination*'')), the following events have occurred:

On March 5, 2001, the petitioner in this investigation (the Committee for Fair Ammonium Nitrate Trade) alleged certain errors in the preliminary determination. We responded to this allegation on March 16, 2001. *See* March 16, 2001 memorandum to Richard W. Moreland, Deputy Assistant Secretary, entitled ''Ministerial Error Allegations for Preliminary Determination,'' which is on file in the Import Administration's Central Records Unit (''CRU''), Room B–099 of the main Department of Commerce building.

In March 2001, we conducted a verification of the questionnaire responses submitted by J.S.C.

''Concern'' Stirol (''Stirol''). We issued the verification report in April 2001.

Also in March 2001, the Government of Ukraine (''GOU'') submitted a draft proposal for an agreement suspending the Department's investigation pursuant to section 734 of the Act. Consultations were held between the Department and the GOU in Washington, DC in June of 2001. No agreement to suspend the investigation was reached.

Supplemental information regarding surrogate values was submitted by Stirol and the petitioner on April 20 and April 23, 2001.

The petitioner and Stirol filed case and rebuttal briefs, respectively, on April 26 and May 1, 2001. The petitioner also submitted a request on May 3, 2001, to strike certain alleged new and untimely information from Stirol's rebuttal brief. The Department did not strike this information because it determined that the information was neither new nor untimely.

No other interested parties to this investigation have submitted any additional information or argument since the *Preliminary Determination.*

Scope of the Investigation

For purposes of this investigation, the products covered are solid, fertilizer grade ammonium nitrate (''ammonium nitrate'' or ''subject merchandise'') products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and for purposes of the Customs Service (''Customs''), the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') for this investigation is April 1, 2000 through September 30, 2000.

Nonmarket Economy Country

The Department has treated Ukraine as a nonmarket economy (''NME'') country in all past antidumping investigations. *See, e.g., Notice of Final Determinations of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Indonesia, Poland and Ukraine,* 66 FR 18752 (April 11, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Ukraine,* 62 FR 61754 (November 19, 1997). Under section 771(18)(C) of the Act, this NME designation remains in effect until it is revoked by the Department.

No party in this investigation has formally requested a revocation of Ukraine's NME status, and no further information has been provided that would lead to such a revocation. *See also* ''Issues and Decision Memorandum'' from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated July 18, 2001, Comment 11 (''*Decision Memorandum*'') (which is on file in the Department's CRU). Therefore, we have continued to treat Ukraine as an NME in this investigation.

Separate Rates

Stirol has requested a separate, company-specific antidumping duty rate. (As explained in the *Preliminary Determination,* although Open Joint Stock Company ''AZOT'' Cherkassy also submitted information relating to separate rates, that information was incomplete.) In our *Preliminary Determination,* we preliminarily found that Stirol had met the criteria for the application of separate antidumping duty rates. *See* 66 FR 13286, 13288–13289. At verification, we found no discrepancies with the separate rates information provided in Stirol's questionnaire responses. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rate determination with respect to Stirol. We, therefore, determine that Stirol should be assigned an individual dumping margin.

Ukraine-Wide Rate

The four companies named in the petition were Stirol, Open Joint Stock Company ''AZOT'' Cherkassy (''Cherkassy''), J.S. Co. Rivneazot (''Rivneazot''), and Severodonetsk State Manufacturing Enterprise ''Azot Association'' (''Severodonetsk''). As stated in the *Preliminary Determination,* information on the record of this investigation indicates that Stirol, the only company that demonstrated its eligibility for a separate rate, did not account for all exports of subject merchandise to the United States from Ukraine during the POI. Therefore, because Ukrainian producers/exporters of ammonium nitrate other than Stirol failed to respond to our questionnaire, we presume that all other NME producers/exporters do not act independently from the government in their export activities and, therefore, are not eligible for separate rates. Accordingly, we are applying a single antidumping deposit rate (''the Ukraine-wide rate'') to all ammonium nitrate exporters in Ukraine except for Stirol.

Use of Facts Available

Stirol

As discussed in the *Decision Memo,* at Comment 2, and explained below in the *Normal Value* section, in certain instances we used partial facts available for Stirol in calculating a final determination margin.

Ukraine-Wide Rate

As explained in the *Preliminary Determination,* the Ukraine-wide antidumping rate is based on adverse facts available, in accordance with section 776 of the Act.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the (Department) under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the (Department) shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' Pursuant to section 782(e) of the Act, the Department ''shall not decline to consider information that is submitted by an interested party and that is necessary to the determination, even if that information does not meet all the applicable requirements established by the (Department), if—(1) the information is submitted by the deadline established for its submission, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information, and (5) the information can be used without undue difficulties.'' Use of facts available is warranted in this case because all producers/exporters other than Stirol have failed to respond or provide a complete response to the Department's questionnaire.

Section 776(b) of the Act further provides that adverse inferences may be used when an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Certain producers/exporters, other than Stirol, decided not to respond or provide a complete response to the Department's questionnaire. On this basis the Department determined that they failed to cooperate by not acting to the best of their abilities in this investigation. Further, given Ukraine's status as a NME, absent a verifiable response from these firms, we must presume government control of these Ukrainian companies. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted and has assigned them a common, Ukraine-wide rate based on adverse inferences.

In accordance with our standard practice, as adverse facts available, we are assigning to the Ukraine-wide entity (*i.e.,* those companies not receiving a separate rate), which did not cooperate in the investigation, the higher of: (1) The highest margin stated in the notice of initiation; or (2) the highest margin calculated for any respondent in this investigation (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Japan,* 63 FR 40434 (July 29, 1998)). As noted in the *Preliminary Determination,* the rate from the petition, as recalculated by the Department at the time of initiation of this investigation, is 257 percent. *See Initiation of Antidumping Duty Investigation: Solid Agricultural Grade Ammonium Nitrate from Ukraine,* 65 FR 66966 (November 8, 2000).

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316 (1994) (''SAA''), states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870.

In order to determine the probative value of the information used to calculate the Ukraine-wide rate for the final determination, as we did for in the *Preliminary Determination,* we examined evidence supporting the calculations in the petition. The methodology we used to determine the probative value of this information was explained in the *Preliminary Determination* and in the Department's February 23, 2001, memorandum to the Deputy Assistant Secretary, ''Preliminary Determination Adverse Facts Available Rate'' (''*Corroboration Memo*''), which is on file in the Department's CRU. As noted in the *Corroboration Memo,* we recalculated the petition margin to 67.20 percent.

Using the methodology discussed in the *Preliminary Determination* and the *Corroboration Memo,* we found that the margin calculated for Stirol for the final determination, 156.29 percent, continues to be the highest margin on the record of this case. Since this margin is a calculated margin in this investigation, this margin does not represent secondary information, and, thus, does not need to be corroborated. Thus, the Department has determined the Ukraine-wide rate to be 156.29 percent.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Stirol for export to the United States were made at less than fair value, we compared export price (''EP'') to normal value (''NV''). Our calculations followed the methodologies described in the *Preliminary Determination,* except as noted below and in Stirol's calculation memorandum dated July 18, 2001, which is on file in the Department's CRU.

Export Price and Constructed Export Price

For Stirol's price to the United States, we used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation, and constructed export price (''CEP'') methodology was not otherwise appropriate. We calculated EP based on the same methodology as in the *Preliminary Determination.*

Normal Value

1. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. Regarding the first criterion, the Department has determined that Pakistan, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to Ukraine in terms of overall economic development (see memorandum from Jeff May, Director, Office of Policy, to Susan Kuhbach, Office Director, AD/CVD Enforcement, Office 1, dated November 14, 2000, which is on file in the Department's CRU).

We selected Indonesia as our surrogate country for the *Preliminary Determination* and since that time we have not received any other information which would warrant reconsideration of that selection. Thus, we have continued to rely on Indonesia as our primary surrogate country for the final determination. As we noted in the *Preliminary Determination*, when Indonesian values were not available or were determined to be aberrational, we used Indian values. No parties commented on the use of the Indian values.

2. Factors of Production and Surrogate Values

In our calculation of NV, we have used the same factors of production and the same surrogate values as in the *Preliminary Determination*, with the following exceptions:

We revised the calculation of our *Energy Prices & Taxes* natural gas value. *See Decision Memo*, at Comment 3. We made adjustments to our calculation of overhead and selling, general, and administrative expenses. *See Decision Memo*, at Comment 5. We valued water as a direct energy input using surrogate values based on information from the Asian Development Bank. *See Decision Memo*, at Comment 2. We valued certain catalysts purchased from market-economy suppliers using verified market economy prices; for other catalysts determined not to have been purchased from a market-economy supplier, we used surrogate values. *See Decision Memo*, at Comment 2.

We also made adjustments to the reported factors of production for one of the catalysts, denatured alcohol, and natural gas energy based on the Department's verification findings. *See Decision Memo*, at Comments 7, 8, and 10, respectively. Moreover, because we find that the indirect labor factor of production information reported by Stirol is unreliable, as partial facts available, we are using the indirect labor factor reported in the petition. *See Decision Memo*, at Comment 2.

Finally, we valued electricity using 1999 data for Indonesia. *See Decision Memo*, at Comment 9. We also corrected our calculation of the electricity factor based on the clerical error allegation made by the petitioner following the *Preliminary Determination. See Decision Memo*, at Comment 2. (*See also* Memorandum from Team to Richard W.

Moreland, ''Ministerial Error Allegations for Preliminary Determination,'' dated March 16, 2001, which is on file in the Department's CRU.)

Critical Circumstances

In the *Preliminary Determination*, the Department issued its preliminary determination that critical circumstances exist for both Stirol and the Ukraine-wide entity. As discussed in the *Preliminary Determination*, our decision was based on the analysis of shipment data submitted by Stirol and available import statistics, as well as the history of injurious dumping of ammonium nitrate from Ukraine. The existence of an antidumping duty order in the European Community on ammonium nitrate from Ukraine is sufficient evidence of a history of injurious dumping. Moreover, as discussed in the *Preliminary Determination*, there is record evidence to support a finding of massive imports over a relatively short period of time. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our critical circumstances determination. Therefore, we continue to find that critical circumstances exist with respect Stirol and the Ukraine-wide entity.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Stirol for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the July 18, 2001, *Decision Memorandum* which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn/frnhome.htm. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing Customs to continue to suspend liquidation of all imports of the subject merchandise from Ukraine entered, or withdrawn from warehouse, for consumption on or after March 5, 2001, the date of publication of the *Preliminary Determination* in the **Federal Register**. In addition, we are directing Customs to continue to suspend liquidation of any unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after December 5, 2000, the date 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**, in accordance with our critical circumstances finding.

Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
J.S.C. ''Concern'' Stirol	156.29
Ukraine-wide rate	156.29

The Ukraine-wide rate applies to all entries of the subject merchandise except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777 (i)(1) of the Act.

Dated: July 18, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

List of Comments in the Issues and Decision Memorandum

Comment 1: Application of Adverse Facts Available
Comment 2: Application of Partial Facts Available
Comment 3: Valuation of Natural Gas
Comment 4: Source of Financial Data for Surrogate Financial Ratios
Comment 5: Valuation of Overhead and SG&A
Comment 6: Valuation of Catalysts, Belting, Tosol, and Denatured Alcohol
Comment 7: Revision of Catalyst Usage
Comment 8: Revision of Denatured Alcohol Usage
Comment 9: Electricity Factor
Comment 10: Revision of Natural Gas Consumed as an Energy Input
Comment 11: Separate Rates

[FR Doc. 01–18566 Filed 7–24–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Stanford University, Notice of Decision on Application for Duty-Free Entry of Electron Microscope

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 01–013. *Applicant:* Stanford University, Stanford, CA 94305–5020. *Instrument:* Electron Microscope, Model JEM–1230. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 66 FR 33232, June 21, 2001. *Order Date:* January 4, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent

scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–18567 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: Rescission of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of rescission of countervailing duty administrative review.

SUMMARY: On March 22, 2001, in response to a request from Dongkuk Steel Mill Co., Ltd. (DSM) (respondent), the Department of Commerce (Department) initiated an administrative review of the countervailing duty order on certain cut-to-length carbon-quality steel plate from the Republic of Korea. The review covers the period July 26, 1999 through December 31, 2000. In accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review because respondent has withdrawn its request for review.

EFFECTIVE DATE: July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Darla Brown, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION: On February 28, 2001, the Department received from DSM a request for an administrative review of the countervailing duty order on certain cut-to-length carbon-quality steel plate from Korea for the period July 26, 1999 through December 31, 2000. On March 22, 2001, the Department published in the **Federal Register** (65 FR 6587) a notice of ''Initiation of Countervailing Duty Administrative Review'' initiating the administrative review.

On June 15, 2001, respondent withdrew its request for review. The applicable regulation, 19 CFR 351.213(d)(1), states that if a party that requested an administrative review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review, the Secretary will rescind the review. Because DSM requested that the Department withdraw the administrative review within the appropriate time period stated in 19 CFR 351.213(d)(1), and it was the only party to request this review, we find it reasonable to accept the party's withdrawal of its request for review. Therefore, we are rescinding the review of the countervailing duty order on certain cut-to-length carbon-quality steel plate from the Republic of Korea for DSM covering the period July 26, 1999 through December 31, 2000.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4) and Section 777(i) of the Act.

Dated: July 18, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–18564 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 010710173–1173–01; I.D. 050201A]

RIN: 0648–AO91

Mid-Atlantic Fishery Management Council; Request for Research Proposals (RFP)

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

ACTION: Notice of solicitation for applications.

SUMMARY: NMFS announces a research set-aside program and describes how the application and selection process for research projects to be funded by a set-aside from the Total Allowable Landings (TAL) of selected species will operate. The award of set-aside from the TAL of selected species is contingent upon the approval of Framework Adjustment 1 to the Mid-Atlantic Fishery Management Council's (Council's) Atlantic Mackerel, Squid, and Butterfish; Summer Flounder, Scup, and Black Sea Bass; Bluefish; and Tilefish Fishery Management Plans (FMPs) (Framework 1). Framework 1 and the Council setting appropriate research quotas will be the subject of future rulemaking. In anticipation of final approval of Framework 1, which is not the subject of this notice, NMFS is soliciting proposals for research activities concerning the summer flounder, scup, black sea bass, *Loligo* squid, *Illex* squid, Atlantic mackerel, butterfish, bluefish, and tilefish fisheries.

DATES: All research proposals to be considered under this solicitation must be received between July 25 2001 and 5:00 p.m., EST, on August 24, 2001, in the Northeast Regional Office (see **ADDRESSES**). Postmarks will not be sufficient. Facsimile applications will not be accepted. For further information related to the timeframe for review and selection of proposals to be conducted with research quota set-asides, see Section A, Background, under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Proposals must be submitted to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark proposals ''Attention: Mid-Atlantic Research Proposals.''

Copies of the Standard Forms for submission of research proposals may be found on the Internet in a PDF (Portable Document Format) version at http://www.ofa.noaa.gov/grants/index.html under the title ''Grants Management Forms,'' or by contacting the Council office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, (302) 674–2331 or David Gouveia, Fishery Policy Analyst, NMFS, (978) 281–9280.

SUPPLEMENTARY INFORMATION:

A. Background

Framework 1 to the FMPs has been submitted by the Council to NMFS for review. If approved, Framework 1, which will be the subject of a rulemaking published in the **Federal Register** at a later date, would establish a procedure through which research set-aside amounts would be set annually as part of the Council's quota-setting process. The set-asides could range between 0 and 3 percent of each species' TAL. It is intended that the set-aside allocated for a given species be utilized

primarily for research involving that species. However, to promote research in those cases where it would otherwise be infeasible, individual research projects could involve allocations from the set-asides for several of the species listed in this notice. Therefore, in addition to applying for part of the set-aside involving a species directly involved in a research project, applicants may also apply for up to 25 percent of the research set-aside quota for species not directly involved in a particular research project. NMFS anticipates issuing exempted fishing permits (EFPs) to authorize the research as well as additional voyages to take compensation fish where appropriate. Regulations at 50 CFR 600.745 are intended to provide for analysis and public notice prior to issuing EFPs. The process in Framework 1 would meet those analytical and public notice requirements.

To be eligible for consideration, a research proposal to be conducted with a research set-aside allocation for the 2002 fishing year must be received during the application period identified in the **DATES** section of this document. Applicants must submit one signed original and two signed copies of the completed application (including supporting information). Prior to selection, NOAA will convene a panel to review proposals submitted in response to this RFP. The panel will provide its recommendations to NOAA no later than August 30, 2001.

The Council, in consultation with the Atlantic States Marine Fisheries Commission (Commission), will incorporate the level of research set-aside (percentages) for the 2002 fishing year into the Council's annual quota specification packages submitted to NMFS. It is anticipated that most proposals will request that vessels conducting research be exempt from certain regulations for that fishery. The impacts of such regulatory exemption must be analyzed. To ease the burden on researchers, the analysis of the impacts associated with the anticipated exemptions will be included as part of the annual quota specification packages submitted by the Council. This process is intended to satisfy the analytical and public notice provisions of the Exempted Fishing Permit (EFP) regulations at 50 CFR 600.745. However, certain conditions may require the applicant to provide additional analysis associated with regulatory exemptions (see section N of this notice).

The actual level of research set-aside quota available to researchers for the 2002 fishing year will depend on the TAL level specified by the Council at its quota-setting meetings in June and August, 2001, and on the percentage (0 to 3 percent) of the TAL specified by the Council. To help researchers develop proposals for the 2002 fishing year, the table below provides some guidance on the general magnitude of research set-asides and estimated values that a researcher might expect to be available for fishing year 2002. The table is based on TAL levels for these fisheries for the 2001 fishing year and assumes the Council allocates the maximum set-aside level of 3 percent of the TAL. The table is intended only as a guide to be used when developing research proposals for the 2002 fishing year. It does not reflect the actual research set-aside quota that may be allocated for fishing year 2002. Those amounts will be recommended by the Council at its June and August meetings and must be approved by NMFS. The Council could choose to recommend less than 3 percent of TAL as a set-aside, or could decide not to recommend any set-aside for a given fishery. The estimated values will vary depending on market considerations prevailing at the time the research trips are conducted.

Species	Example of 3 Percent Research Set-aside Allocation		Estimated Value ($)
	(lb)	(kg)	
Summer Flounder	537,300	243,719	902,664
Scup	186,600	84,642	236,982
Black Sea Bass	185,100	83,961	318,372
Loligo Squid	1,124,339	510,000	865,741
Illex Squid	1,587,302	720,000	365,079
Atlantic Mackerel	5,621,693	2,550,000	730,820
Butterfish	390,013	176,910	222,307
Bluefish	1,135,200	514,927	431,376
Tilefish	59,850	27,148	148,428

B. Authority

Issuing grants is consistent with sections 303(b)(11), 304(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

C. Catalog of Federal Domestic Assistance (CFDA)

11.454, Unallied Management Projects

D. Funding Instrument and Project Period

In consultation with NMFS, the NOAA Grants Office will award a grant to successful applicants through the NOAA grant award process. The project period for all research is January 1, 2002, through December 31, 2002, with the exception of any approved projects concerning the tilefish fishery. The project period for any tilefish research under the set-aside program will be based upon the effective date of the regulations implementing the Tilefish FMP and establishing the start date of the fishing year for tilefish. It is anticipated that the project period for any research concerning tilefish would likely be summer 2002 through summer 2003. Proposals to fund research that was started prior to or that would be completed after the project period will not be considered.

E. Funding Availability

No Federal funds are provided for research under this notification. The Federal Government's contribution to the project will be an EFP, which will provide special fishing privileges in response to research proposals selected under this program. The Federal Government shall not be liable for any costs incurred in the conduct of the project. Any funds generated from the landings authorized in the EFP shall be used to cover the cost of the research, including vessel costs, and to compensate vessel owners for expenses incurred. Therefore, the owner of each fishing vessel selected to land a species in excess of a trip limit or seasonal quota must use the proceeds of the sale of the excess catch to compensate the researcher for costs associated with the research activities and use of the vessel.

Any additional funds above the cost of the research activities (or excess program income) shall be retained by the vessel owner as compensation for the use of his/her vessel.

F. Scope of Research

Projects funded under the research quota set-aside program should enhance understanding of the fishery resource or contribute to the body of information on which management decisions are made. Research, as well as additional voyages to obtain compensation fish, may be conducted, as specified in the EFP, in or outside of a closed area, within the timeframe of a commercial quota closure, and onboard a fishing or other type of vessel, including recreational and/or commercial vessels. Research conducted with these research quota set-aside allocations need not involve the harvest of these specific species.

Funds generated from the research quota set-aside landings shall be used to cover the cost of the research activities, including vessel costs, and to compensate boats for expenses incurred during the collection of the set-aside species. For example, the funds could be used to pay for gear modifications, monitoring equipment, additional provisions (e.g., fuel, ice, food for scientists), or the salaries of research personnel. The Federal Government is not liable for any costs incurred by the researcher or vessel owner should the sale of the excess catch not fully reimburse the researcher or vessel owner for their expenses.

G. Eligibility Criteria

All commercial organizations; non-profit organizations; state, local or tribal governments; institutions of higher education; and individuals are eligible to apply, provided that all proposal requirements are satisfied and the proposal is received by the date specified in this document.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission and goals are to achieve full participation by Minority Serving Institutions (MSIs) in order to advance the development of human potential, to strengthen the Nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal financial assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

H. Proposal Requirements

Proposals must be submitted to NOAA and must identify the research to be conducted and the total amount of the set-aside species requested for the project, including their approximate cash value. If a waiver of Federal regulations is required, a list of the specific regulations to be waived and a brief justification for such a waiver must be included with the proposal.

In addition, each proposal must identify the requirements for the participating vessel(s) that would make a trip to collect the set-aside species. The vessel(s) selected by the applicant should be listed in the proposal, if possible, or specifically identified prior to final approval by NOAA. Proposals may request that the quota set-aside be collected separately from the research trip or other related research trip. The separate compensation trips do not necessarily have to be conducted by the same vessel. The Council or NMFS contact person may provide assistance to researchers who are seeking vessels to participate in the collection of set-aside species or directly in research projects.

The researcher's proposal must state the amount of funds required to support the research project, as well as the amount required to compensate the vessel owner either for the collection of set-aside species or for participation in the research project, or both. The proposal must also include the agreement between the vessel owner and researcher that shows exactly how the research activity is to be paid for, if possible, or such agreement must be provided prior to final approval by NOAA.

I. Project Funding Priorities

The Council and NOAA will give priority to funding research proposals in the following areas identified as research priorities by the Council and Commission for the 2002 fishing year (not listed in order of priority):

1. Bycatch and discard reduction concerning: (a) Distinctions between regulatory discards and bycatch attributed to gear, including mesh selectivity and/or overall gear design in the summer flounder fishery; (b) gear modifications in the *Loligo* squid fishery to reduce scup bycatch; and (c) discard studies in the Loligo and scup fisheries;

2. Mesh and gear selectivity focusing on: (a) The examination of summer flounder catch composition in small-mesh net fisheries within the summer flounder small-mesh exemption area; (b) summer flounder mesh selectivity studies; (c) scup mesh selectivity; (d) squid mesh selectivity; (e) black sea bass mesh selectivity; and (f) the development of threshold triggers based on gear and fishery characteristics;

3. Fishing impacts on habitat pertaining to: (a) Mobile gear impacts on tilefish burrows; (b) identification of scup spawning areas and scup larvae settlement areas in coastal/estuarine waters; and (c) identification of benthic habitat of juvenile and adult black sea bass, and scup offshore wintering areas;

4. Cooperative stock assessment surveys focusing on: (a) The use of hydro-acoustic methods to determine abundance of Atlantic mackerel; and (b) cooperative stock assessment surveys in the summer flounder fishery;

5. Improved recreational fishery data focusing on: (a) Research to enhance the overall knowledge of the recreational fishery; and (b) statistical models to evaluate the effectiveness of recreational management measures and/or data collection process; and

J. Evaluation Criteria

The review panel convened by NOAA to evaluate proposals submitted in response to this RFP (see section L of this notice), will evaluate proposals based by assigning scores up to the maximum indicated for each of the following criteria:

1. A clear definition of the problem, need, issue or hypothesis to be addressed (10 points);

2. A clear definition of the approach to be used, including theoretical studies, laboratory analyses, and/or field work (15 points);

3. Adequate justification as to how the project is likely to achieve its stated objectives (15 points);

4. Identification of anticipated benefits, potential users and methods of disseminating results (10 points);

5. Relevance of the project to the project funding priorities identified by the Council (see section I of this notice) (20 points);

6. Demonstration of support, cooperation and/or collaboration with the fishing industry (10 points);

7. Cost-effectiveness of the project (10 points); and

8. Consistency of the data format generated from the research with NMFS' and Atlantic Coast Cooperative Statistical Program's (ACCSP) databases (10 points).

K. Selection Procedures

NOAA will solicit written technical evaluations from the Council's Comprehensive Management Committee

(Committee) and from three or more appropriate private and public sector experts to score proposals using the criteria specified in section J of this notification to determine the technical merit of the proposal. Following completion of the technical evaluation, NOAA will convene a review panel, including the Committee and technical experts, to review and individually critique the scored proposals to enhance NOAA's understanding of the proposals. Based on a proposal's average score and rank order based on average scores, comments provided by the review panel, and the following program policy factors, NOAA will make recommendations for each proposal to the selecting official and inform the Council of its recommendations. The program policy factors are: (1) The time of year the research activities are to be conducted; (2) the ability of the proposal to meet the experimental fishery requirements discussed under Section N of this notice; (3) the ability of the researchers to physically complete the proposed research in the areas and time allotted; and (4) redundancy of research projects. Therefore, the highest scoring projects may not necessarily be selected for an award. The selecting official will provide final approval of the projects to allow NMFS to exempt selected vessel(s) from specific regulations implementing the respective FMPs through written notification to the applicant.

For proposals that request exemptions from existing regulations, the impacts of the proposed exemptions must be analyzed. The Council will analyze these impacts as part of the impacts of the proposed specifications for the upcoming fishing year for inclusion in the annual quota specification packages it submits to NMFS. However, those individuals with proposals that include vessel activities that extend beyond the scope of the analysis provided by the Council may be required to provide additional analysis before issuance of an EFP will be considered (see section N). However, any researchers who request regulatory exemptions that are beyond the scope of the Council analysis may be required to obtain an Exempted Fishing Permit (EFP) from NMFS (see section N). If issuance of an EFP is necessary for the research to be conducted, the final decision on the applicant's proposal for research quota will not be made by NOAA until NMFS advises that the applicant's EFP request is approved.

L. Proposal Format

Proposals should be limited to seven pages, excluding item 6 below. The format may vary but must include:

1. A project summary;

2. A narrative project description to include: (a) Project goals and objectives; (b) the relationship of the proposed project to management needs or priorities identified by the Council; (c) a statement of work (project design and management including who is responsible, expected products, and participants other than applicant); and (d) a summary of the existing state of knowledge related to the project and contribution and relevance of the proposed work;

3. A description of all funding sources (including revenues derived from the sale of the species harvested under the research quota set-aside) and funding needs. This element of the proposal must include the amount of research quota set-aside requested for each species and the expected funds to be generated by the sale of those species, also the expected percentage of funds to be allocated to the researcher and any involved fishing vessel;

4. A budget that includes a breakdown of costs, including permit costs, equipment, supplies, and overhead. Applicants must submit a Standard Form 424 ''Application for Federal Assistance'' including a detailed budget using Standard Form 424A, ''Budget Information-- Non-Construction Programs,'' Standard Form 424B, ''Assurances - Non-Construction Programs,'' and Commerce Department Form CD-511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying.'' Copies of these Standard Forms may be found on the Internet in a PDF version at http://www.ofa.noaa.gov/grants/index.html under the title ''Grants Management Forms'';

5. A list of any Federal or state regulations that the applicant needs to have waived and a brief justification for such a waiver. Note that requests for waivers of state regulations will be forwarded to the appropriate state agency(s). The Federal Government cannot guarantee that state agencies will accede to any particular request; and

6. Supporting documents including resumes, cooperative research agreements, and contracts.

M. Final Reports and Data Submission

NOAA will require project researchers to submit to NOAA, with a copy to the Council, an interim and/or final report describing their research project results, or other acceptable deliverable(s), in a timeframe that is specific to the type of research conducted. The format of the final report may vary, but must contain:

1. A brief summary of the final report;

2. A description of the issue/problem that was addressed;

3. A detailed description of methods of data collection and analyses;

4. A discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; this should include benefits and/or contributions to management decision-making;

5. A list of entities, firms, or organizations that actually performed the work and a description of how the work was accomplished; and

6. A detailed final accounting of all funds used to conduct research, including those provided through the research set-aside. The financial information must be submitted on Office of Management and Budget Standard Form-269. Copies of this Standard Form may be found on the Internet in a PDF version at http://www.ofa.noaa.gov/grants/index.html under the title ''Grants Management Forms.'' Projects designed to collect new data for inclusion in NMFS' or ACCSP's databases must submit the data in electronic format with appropriate documentation. Certain databases will have highly specific requirements as to required fields and content. Researchers must agree to provide newly collected data in a format acceptable to the administrators of the receiving database.

N. Other Requirements

It is intended that the Council staff bear the primary responsibility for the evaluations of impacts associated with the research, including analysis of any requested regulatory waivers. However, researchers proposing research and/or compensation fishing that goes beyond the scope of analysis provided by the Council staff in the Council's annual specification packages may be required to obtain an EFP from NMFS. Should a researcher be required to submit a request for an EFP to NMFS at least 60 days before the requested start date of the proposed research to allow for additional analysis. A final decision on the applicant's grant request for research quota will not be made until NMFS has approved the applicant's EFP request.

O. Other Requirements of Recipients

1. Federal Policies and Procedures

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and

procedures applicable to Federal financial assistance awards.

2. Past Performance

Unsatisfactory performance under prior Federal awards may result in a proposal not being selected.

3. Delinquent Federal Debt

A proposal submitted by an applicant who has an outstanding delinquent Federal debt is not eligible for selection until either:

i. The delinquent account is paid in full;

ii. A negotiated repayment schedule is established and at least one payment is received; or

iii. Other arrangements satisfactory to DOC are made.

4. Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management honesty or financial integrity.

5. 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 are hereby provided:

i. Nonprocurement Debarment and Suspension. Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension '' and the related section of the certification form prescribed above applies;

ii. Drug-Free Workplace. Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

iii. Anti-Lobbying. Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. part 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.'' The lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000; and

iv. Anti-Lobbying Disclosures. Any applicant who 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.

6. Lower Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions and Lobbying '' and disclosure form, SF-LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. An SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

7. 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.

8. Preaward Activities

If you incur any costs prior to receiving an award agreement signed by an authorized NOAA official, you do so solely at your own risk of these costs not being included under the award. Notwithstanding any verbal or written assurance that you may have received, preaward costs are not allowed under the award unless the grants officer approves them in accordance with 15 CFR 14.28.

9. Future Awards

If NOAA approves an application to perform research to be conducted with the research quota set-aside, NOAA has no obligation to provide future research quota set-aside obligations in connection with that award above that specified in the approved grant.

Classification

Prior notice and opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)).

Because a general notice of proposed rulemaking as specified in 5 U.S.C. 533, or any other law, was not required for this action, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 269, 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0039, 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

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

Dated: July 19, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–18574 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071601D]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Receipt of applications for scientific research permits.

SUMMARY: NMFS has received applications for Endangered Species Act (ESA) scientific research permits from the Fish Ecology Division of the Northwest Fisheries Science Center, NMFS at Seattle, WA (NWFSC); the Hecla Mining Company at Challis, ID (HMC); and the Washington Department of Fish and Wildlife at Olympia, WA (WDFW).

DATES: Comments or requests for a public hearing on any of the new applications or the modification request must be received no later than 5 p.m. Pacific daylight time on August 24, 2001

ADDRESSES: Written comments and requests for copies of the permit applications should be sent to Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (503/230–5400). Comments may also be sent via fax to 503/230–5435. The documents are also available on the Internet at *http://www.nwr.noaa.gov/* . Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Robert Koch, Portland, OR, phone: 503-230-5424, Fax: 503-230-5435, e-mail: *robert.koch@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in this Notice

The following species and evolutionarily significant units (ESUs) are covered in This notice:

Chinook salmon (*O. tshawytscha*): endangered, naturally produced and artificially propagated, upper Columbia River (UCR) spring; threatened, naturally produced and artificially propagated, SnR spring/summer; threatened SnR fall; threatened lower Columbia River (LCR); threatened upper Willamette River (UWR); threatened, naturally produced and artificially propagated, Puget Sound.

Steelhead (*O. mykiss*): endangered, naturally produced and artificially propagated, UCR; threatened SnR; threatened middle Columbia River (MCR); threatened UWR.

New Applications Received

NWFSC requests a 5–year permit (1322) for annual takes of the juvenile life stage of 7 of the 10 anadromous fish ESUs identified in this document (all ESUs except endangered UCR spring chinook salmon, endangered UCR steelhead, and threatened Puget Sound chinook salmon) associated with a scientific research project proposed to occur in the lower Columbia River and estuary. The objective of the research is to identify associations between salmon and habitat. The approach will be to (1) determine the relationship between habitat and the presence, use, and benefit to juvenile salmon, with an emphasis on subyearling chinook salmon, and (2) understand the relationships between changes in flow, sediment input, and availability of habitat in the lower Columbia River and estuary. The need to develop effective restoration strategies requires that the benefits of estuarine habitats to juvenile salmon be identified by evaluating habitat-salmon linkages. The long history of wetland loss in the Columbia River estuary coupled with changes in flow patterns suggests that restoration of these habitats may benefit depressed salmon stocks. Information obtained from the research will serve as the basis for developing habitat restoration and preservation plans. NWFSC proposes to sample for the presence and abundance of salmon species in the estuary and lower Columbia River at monthly intervals throughout each annual period. ESA-listed juvenile salmon and steelhead are proposed to be captured with beach seines and trapnets, sampled for biological information, and released. ESA-listed juvenile fish indirect mortalities associated with the research are requested. In addition, NWFSC is also requesting intentional lethal takes of ESA-listed juvenile salmon for stomach content identification and the collection of scales and otoliths.

HMC requests a 5–year permit (1344) for annual takes of juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon and juvenile, threatened, SnR steelhead associated with research designed to monitor the aquatic fish populations in Jordan Creek and the Yankee Fork of the Salmon River in the vicinity of HCM's Grouse Creek Mine. Grouse Creek Mine is an open pit gold/silver mine operation located adjacent to Jordan Creek, a tributary of the Yankee Fork of the Salmon River. In early 2000, the operations at Grouse Creek Mine were permanently suspended. Annual biological monitoring is proposed to determine the effects of mine operations on the aquatic life in Jordan Creek and the Yankee Fork. The monitoring is required by the U.S. Forest Service and the U.S. Environmental Protection Agency under a National Pollutant Discharge and Elimination System permit and an Administrative Order on Consent. The biomonitoring project will benefit all aquatic species, including chinook salmon and steelhead, in that annual monitoring will detect any adverse impacts to the aquatic species as a result of mining operations. ESA-listed juvenile salmon and steelhead are proposed to be observed/harassed during snorkel surveys. ESA-listed juvenile fish are also proposed to be captured using electrofishing, sampled for biological information, and released. ESA-listed juvenile fish indirect mortalities associated with the research are also requested.

WDFW requests a 5–year permit (1345) for annual takes of both the adult and juvenile life stages of 6 of the 10 anadromous fish ESUs identified in this document (all ESUs except threatened SnR fall chinook salmon, threatened LCR chinook salmon, threatened UWR chinook salmon, and threatened UWR steelhead) associated with two scientific research projects proposed to occur in selected rivers and tributaries throughout the state of Washington. The objective of Project 1 is to conduct annual warmwater fish stock assessment surveys necessary for inland fish management purposes. Surveys of warmwater fish species are usually conducted in the backwater sloughs, oxbow lakes, and ponds associated with major river systems. Boat electrofishing is a critical component of WDFW's standardized sampling methodology for warmwater fish species. ESA-listed adult and juvenile salmon and steelhead are proposed to be captured using boat electrofishing, sampled for biological information, and released. The objective of Project 2 is to evaluate the fish populations present in gravel pit ponds connected to the Yakima River. Current proposals for increased gravel extraction and the requirement to protect fish listed under the ESA highlight the need for a better understanding of the impacts of floodplain gravel mining. Gravel pit avulsion (being captured by the river) may be detrimental to ESA-listed fish due to increases in suspended fine sediments, increased temperatures, the introduction of exotic fish species from a formerly stocked pond, and the creation of habitat preferred by native and non-native piscine predators. In order to better plan future mining operations in the state and manage existing gravel pit ponds, WDFW proposes to assess the possible impacts of connecting the Yakima River to the gravel pits by comparing the assemblages, densities, stomach fullness, and stomach contents of all species of fish present at sites adjacent to the gravel pit ponds with those at sites away from the ponds. Adult and juvenile, threatened, MCR steelhead are proposed to be observed/harassed during snorkel surveys. In addition, adult and juvenile, threatened, MCR steelhead are proposed to be captured using boat electrofishing or beach seines, sampled for biological information and stomach contents, and released. ESA-listed juvenile salmon and steelhead indirect mortalities associated with both of WDFW's proposed projects are also requested.

Dated: July 19, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–18573 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070901F]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of modifications to scientific research permits 1114, 1115, 1119, 1141, 1203 and issuance of scientific research permit 1292.

SUMMARY: NMFS has issued permit modifications to the Washington Department of Fish and Wildlife at Olympia, WA (WDFW); Chelan County Public Utility District (PUD) No. 1 at Wenatchee, WA; the Mid-Columbia River Fisheries Resource Office of the U.S. Fish and Wildlife Service at Leavenworth, WA (USFWS); Grant County PUD No. 2 at Ephrata, WA and has issued a permit to the Pacific Northwest Research Station of the U.S. Forest Service at La Grande, OR (USFS).

ADDRESSES: Copies of the permits may be obtained from Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737, phone: 503–230–5400, fax: 503–230–5435.

FOR FURTHER INFORMATION CONTACT: Robert Koch, Portland, OR, phone: 503–230–5424, fax: 503–230–5435, e-mail: *robert.koch@noaa.gov*.

SUPPLEMENTARY INFORMATION: The following species and evolutionary significant units (ESUs) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): endangered, naturally produced and artificially propagated, upper Columbia River (UCR).

Steelhead (*Oncorhynchus mykiss*): endangered, naturally produced and artificially propagated, UCR.

Permit Modifications Issued

Notice was published on April 21, 1999 (64 FR 19515) that WDFW applied for a modification to scientific research/enhancement permit 1094. The permit modification request was subsequently converted to modification 3 to scientific research permit 1114. Modification 3 to permit 1114 was issued to WDFW on July 6, 2001. Permit 1114 authorizes WDFW annual takes of Endangered Species Act (ESA) listed adult and juvenile salmon and steelhead associated with two scientific research studies conducted at Rock Island Dam on the Columbia River. For modification 3, WDFW is authorized annual takes of ESA-listed adult steelhead associated with an additional study. The purpose of the additional study is to assess ESA-listed adult steelhead hydroelectric project passage and fallback rates (at the five dams on the mainstem upper Columbia River), migratory behavior, and spawning distribution within the upper Columbia River watersheds. ESA-listed adult steelhead will be collected at Priest Rapids Dam, tagged with gastrically implanted radiotransmitters, released, and tracked electronically. ESA-listed adult steelhead indirect mortalities associated with the research are also authorized. Modification 3 is valid for the duration of the permit which expires on December 31, 2002.

Notice was published on April 19, 2000 (65 FR 20954), that Chelan County PUD applied for modification 3 to scientific research permit 1115. Modification 3 to permit 1115 was issued on July 6, 2001. Permit 1115 authorizes Chelan County PUD annual takes of ESA-listed adult and juvenile salmon and steelhead associated with six scientific research studies. For modification 3, increases in annual takes of ESA-listed salmon and steelhead juveniles associated with four of the six studies are authorized. Chelan County PUD requires take increases because more effort and resources are being devoted to the research and thus, more fish are being handled. Take increases are also requested because in recent years, Chelan County PUD researchers have had to sort through more fish to find test animals for study purposes. Also for modification 3, Chelan County PUD is authorized an annual take of adult, endangered, UCR spring chinook salmon associated with a fish salvage operation at Rocky Reach Dam. Some ESA-listed adult chinook salmon that fallback after passing the dam tend to inadvertently enter and get trapped in the juvenile fish bypass system at the dam. The trapped adult fish will be collected using sanctuary nets and carefully returned to the Columbia River. Also for modification 3, Chelan County PUD is authorized annual takes of ESA-listed adult and juvenile salmon and steelhead associated with a new study designed to assess the abundance, distribution, and timing of the species' spawning activity in the Chiwawa River, White River, Nason Creek, and the Little Wenatchee River in WA. ESA-listed adult and juvenile salmon and steelhead will be observed/harassed during snorkel surveys and spawning ground surveys. ESA-listed adult fish carcasses will also be collected and sampled for tissues and scales. Modification 3 is valid for the duration of the permit which expires on December 31, 2002.

Notice was published on March 22, 2000 (65 FR 15312), that USFWS applied for modification 2 to scientific research permit 1119. Modification 2 to permit 1119 was issued on July 6, 2001. Permit 1119 authorizes USFWS annual takes of ESA-listed adult and juvenile salmon and steelhead associated with four scientific research studies. For modification 2, USFWS is authorized an increase in the annual take of ESA-listed juvenile steelhead associated with the study (Study 1) designed to assess the annual emigration of emerging juvenile salmonids in the Entiat River Basin. USFWS determined that the previous level of steelhead take for the study is not enough to conduct a statistically valid assessment of the juvenile steelhead emigration from the Entiat River throughout the annual outmigration season. Also for modification 2, USFWS will obtain tissue samples from the ESA-listed adult spring chinook salmon carcasses that are authorized to be handled during routine spawning ground surveys in the Entiat River Basin and from the ESA-listed juvenile spring chinook salmon that are authorized to be handled under Study 1. Tissue samples will be transferred to the Northwest Fisheries Science Center, NMFS for genetic analysis. Modification 2 is valid for the duration of the permit which expires on December 31, 2002.

Notice was published on April 7, 2000 (65 FR 18310), that Grant County PUD applied for modification 2 to scientific research permit 1141. Modification 2 to permit 1141 was issued on July 6, 2001. Permit 1141 authorizes Grant County PUD annual takes of ESA-listed adult and juvenile salmon and steelhead associated with four scientific research studies at or in the vicinity of Wanapum and Priest Rapids Dams located on the upper Columbia River in WA. For modification 2, Grant County PUD is authorized an increase in the annual take of juvenile, endangered, artificially propagated, UCR steelhead associated with the steelhead survival study at Wanapum and Priest Rapids Dams. Also for modification 2, Grant County PUD is authorized annual takes of adult and juvenile, endangered, UCR spring chinook salmon and adult and juvenile, endangered, UCR steelhead associated with fish salvage efforts at Wanapum and Priest Rapids Dams. Each year, migrating fish are inadvertently entrained within the project's wheelgate bulkhead gatewell slots during the annual spring and summer migration periods. Without assistance, the fish would remain within the gatewells for periods ranging from a few days to weeks and even months. Migrating fish, including some downstream migrating steelhead kelts, will be removed from the gatewells via boom truck, gatewell dip-net, hopper box, or sanctuary box and transported to a temporary holding tank until release. Grant County PUD is also authorized annual takes of ESA-listed juvenile salmon and steelhead associated with efforts to monitor the condition of smolts subjected to salvage. ESA-listed juvenile fish indirect mortalities associated with fish salvage and monitoring activities are

authorized. Modification 2 is valid for the duration of the permit which expires on December 31, 2002.

Notice was published on June 3, 1999 (64 FR 29839), and on March 22, 2000 (65 FR 15312), that WDFW applied for a modification to scientific research permit 1203. Modification 1 to permit 1203 was issued on July 6, 2001. Permit 1203 authorizes WDFW annual takes of ESA-listed adult and juvenile salmon and steelhead associated with four scientific research studies in the UCR Basin. For modification 1, WDFW is authorized annual takes of juvenile, endangered, artificially propagated, UCR spring chinook salmon and adult and juvenile, endangered, UCR steelhead associated with the Wenatchee River Basin production research. Also, an increase in the annual take of juvenile, endangered, naturally produced, UCR spring chinook salmon is authorized for the study. Also for modification 1, annual takes of adult and juvenile, endangered, UCR spring chinook salmon and adult and juvenile, endangered, artificially propagated, UCR steelhead are added to the UCR Basin spawning ground assessment study. Also for the permit modification, annual takes of juvenile, endangered, naturally produced, UCR steelhead are added to the salmonid habitat carrying capacity study and the salmonid distribution study. Also for modification 1, WDFW is authorized annual takes of ESA-listed adult and juvenile salmon and steelhead associated with fish salvage operations in dewatered areas in the Wenatchee River Basin. ESA-listed fish indirect mortalities associated with the research and/or enhancement activities are authorized. Modification 1 is valid for the duration of the permit which expires on December 31, 2003.

Notice was published on February 21, 2001 (66 FR 11002), that USFS applied for a scientific research permit (1292). Permit 1292 was issued to USFS on July 6, 2001. Permit 1292 authorizes USFS annual takes of ESA-listed juvenile salmon and steelhead associated with research to be conducted in the Yakima River, the Wenatchee River, the Entiat River, and the Methow River in WA. The purpose of the research is to determine the extent and distribution of hybridization between westslope cutthroat trout, rainbow trout, and anadromous steelhead for selected populations in the middle Columbia River and UCR Basins. The research will benefit the ESA-listed species by providing information on westslope cutthroat trout and rainbow trout/steelhead interactions and could provide insight into possible genetic introgression of introduced rainbow trout stocks in the areas of native rainbow trout/steelhead distribution. Permit 1292 expires on December 31, 2002.

The issuance of the permit modifications and the new permit is based on a finding that such permits: (1) were applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 20, 2001.

Donna Brewer,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–18576 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

July 20, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 26, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, carryover, carryforward and the recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66727, published on November 7, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 20, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on July 26, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
222	763,503 kilograms.
331	666,041 dozen pairs.
338/339	1,932,522 dozen of which not more than 1,129,383 dozen shall be in Category 338 and not more than 1,214,309 dozen shall be in Category 339.
347/348	1,317,144 dozen of which not more than 801,369 dozen shall be in Category 347 and not more than 658,240 dozen shall be in Category 348.
604	1,116,607 kilograms.
639	4,241,085 dozen.
642	388,387 dozen.
648	1,790,693 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–18557 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man–Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the United Arab Emirates

July 20, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 26, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryover, swing, carryforward and the recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66974, published on November 8, 2000.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 20, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 2, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man–made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on July 26, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
219	1,818,089 square meters.
226/313	3,108,977 square meters.
317	43,725,463 square meters.
326	3,093,521 square meters.
334/634	353,831 dozen.
335/635/835	237,502 dozen.
336/636	338,475 dozen.
338/339	934,844 dozen of which not more than 586,300 dozen shall be in Categories 338–S/339–S [2].
340/640	545,213 dozen.
341/641	524,380 dozen.
342/642	398,787 dozen.
347/348	653,309 dozen of which not more than 343,452 dozen shall be in Categories 347–T/348–T [3].
351/651	257,251 dozen.
352	551,979 dozen.
363	9,589,614 numbers.
369–O [4]	914,603 kilograms.
369–S [5]	136,179 kilograms.
638/639	335,545 dozen.
647/648	480,948 dozen.
847	333,471 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020.

[3] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010. 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[5] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
J. Hayden Boyd,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–18556 Filed 7–24–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0095]

Federal Acquisition Regulation; Submission for OMB Review; Commerce Patent Regulations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Commerce Patent Regulations, Public Law 98–620. A request for public comments was published at 66 FR 32607, June 15, 2001. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to

respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 24, 2001.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0095, Commerce Patent Regulations, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Acquisition Policy Division, GSA (202) 501–4764.

SUPPLEMENTARY INFORMATION:

A. Purpose

As a result of the Department of Commerce (Commerce) publishing a final rule in the **Federal Register** implementing Public Law 98–620 (52 FR 8552, March 18, 1987), a revision to FAR Subpart 27.3 to implement the Commerce regulation was published in the **Federal Register** as an interim rule on June 12, 1989 (54 FR 25060).

A Government contractor must report all subject inventions to the contracting officer, submit a disclosure of the invention, and identify any publication, or sale, or public use of the invention (52.227–11(c), 52.227–12(c), and 52.227–13(e)(2)). Contractors are required to submit periodic or interim and final reports listing subject inventions (27.303(a); 27.304–1(e)(1)(i) and (ii); 27.304–1(e)(2)(i) and (ii); 52.227–12(f)(7); 52.227–14(e)(3)). In order to ensure that subject inventions are reported, the contractor is required to establish and maintain effective procedures for identifying and disclosing subject inventions (52.227–11, Alternate IV; 52.227–12(f)(5); 52.227–13(e)(1)). In addition, the contractor must require his employees, by written agreements, to disclose subject inventions (52.227–11(f)(2); 52.227–12(f)(2); 52.227–13(e)(4)). The contractor also has an obligation to utilize the subject invention, and agree to report, upon request, the utilization or efforts to utilize the subject invention (27.302(e); 52.227–11(h); 52.227–12(h)).

B. Annual Reporting Burden

Respondents: 1,200.
Responses Per Respondent: 9.75.
Total Responses: 11,700.
Hours Per Response: 3.9.
Total Burden Hours: 45,630.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0095, Commerce Patent Regulations, in all correspondence.

Dated: July 20, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–18562 Filed 7–24–01; 8:45 am]

BILLING CODE 6820–EP–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provision of the ''Government in the Sunshine Act'' (5 USC 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below

Time and Date of Meeting: 9 a.m., August 15, 2001. Additionally, the meeting will be webcast and available at: *http://www.dnfsb.gov.*

Place: The Defense Nuclear Facilities Safety Board, Public Hearing Room, 625 Indiana Avenue, NW., Suite 300, Washington, DC 20004.

Status: Open.

Matters To Be Considered: The Department of Energy (DOE) requires contractors at defense nuclear facilities to develop and implement nuclear quality assurance programs to ensure the requisite quality of operations, products, and services that directly affect nuclear safety-related systems and operations. Activities required to be conducted under established quality assurance programs extend from scientific studies, to the design, construction, operation, and deactivation of defense nuclear facilities. Notwithstanding contract and rule requirements concerning quality assurance, there is evidence that quality assurance programs at defense nuclear facilities are not consistently achieving their quality objectives.

This is the third in a series of open meetings being held by the Board on the topic of quality assurance within DOE defense nuclear activities. Board inquiries will address: (1) The status of quality assurance assessments at DOE, National Nuclear Security Administration (NNSA) sites; (2) the status of quality assurance assessments at Environmental Management (EM) sites; (3) the status of corrective actions for software quality concerns; (4) Board staff observations on quality assurance at defense nuclear facilities; and (5) quality assurance as an enforcement tool in improving safety.

CONTACT PERSON FOR MORE INFORMATION: Richard A. Azzaro, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: The Defense Nuclear Facilities Safety Board reserves its right to further schedule and otherwise regulate the course of this meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

Dated: July 23, 2001.

John T. Conway,

Chairman.

[FR Doc. 01–18619 Filed 7–23–01; 10:38 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by July 25, 2001. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before September 24, 2001.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that

the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: July 23, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Charter School Facility Financing Demonstration Grant Program.

Abstract: ED will use the information through this application to award 3–5 competitive grants. These grants will be made to private, non-profits; governmental entities; and consortia of these organizations. These organizations will use the funds to leverage private capital to help charter schools construct, acquire, and renovate school facilities.

Additional Information: The Department is requesting emergency processing in part because recipients need to receive these funds so that they can identify charter schools to benefit from these funds and establish strategies to leverage funds on behalf of these schools. Furthermore, participating charter schools need to plan their school facility needs. The Department wants all of the initial projects financed to be underway no later than next summer. Summer is the primary season for local educational agencies (LEAs) to undertake school facility renovation projects, when schools are not otherwise in use. Failure to make awards on this schedule will likely cause substantial harm to some charter schools since they may be forced to delay their school renovation projects until the following year. The Department requests OMB approval by July 25.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 30.

Burden Hours: 1,200.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at (540) 776–7742. 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. 01–18618 Filed 7–24–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Revision to the Record of Decision for the Department of Energy's Waste Management Program: Treatment and Storage of Transuranic Waste

AGENCY: Department of Energy.

ACTION: Revision to record of decision.

SUMMARY: The Department of Energy (DOE), pursuant to 10 Code of Federal Regulations (CFR) 1021.315, is revising the Record of Decision (ROD) for the DOE Waste Management Program: Treatment and Storage of Transuranic (TRU) Waste, issued on January 20, 1998 (63 **Federal Register** (FR) 3629) and revised previously on December 29, 2000 (65 FR 82985). The Department has now decided to transfer approximately 300 cubic meters of contact-handled transuranic (CH–TRU) waste from the Mound Plant in Ohio to the Savannah River Site (SRS) in South Carolina for storage, characterization, and repackaging prior to sending it to the Waste Isolation Pilot Plant (WIPP) in New Mexico for disposal. The CH–TRU waste will be shipped to SRS in specially designed railcars under an exemption granted by the U.S. Department of Transportation (DOT). The exemption allows for the shipment of 10 railcar loads, each containing no more than 200 curies of plutonium, and is in effect through May 2002. Previously in its ROD, based in part on the analysis in the Waste Management Programmatic Environmental Impact Statement (WM PEIS, DOE/EIS–0200F, dated May 1997), DOE had decided (with one exception) that each DOE site would prepare its own TRU waste for disposal and store it onsite until it is shipped to WIPP. Because DOE is closing the Mound Plant and the site is being converted into a commercial/industrial park, establishing a new capability at Mound to repackage its TRU waste to meet the specifications for shipment to WIPP is not practical or cost-effective.

DOE needs to ship its TRU waste from the Mound Plant to another site for repackaging into the TRU Package Transporter–II (TRUPACT–II) containers that are required for shipments to WIPP.

FOR FURTHER INFORMATION CONTACT: Copies of the WM PEIS, the 1998 WM PEIS ROD for TRU waste, the first revised WM PEIS ROD for TRU waste (issued in 2000), this revised ROD, and the Supplement Analysis for Transportation of TRU Waste from the Mound Plant to SRS for Repackaging, Characterization, and Storage (DOE/EIS–0200–SA02) will be available on DOE's National Environmental Policy Act (NEPA) Web at: *http://tis.eh.doe.gov/nepa* under DOE NEPA Analyses. To request copies of any of these documents, please write or call:

The Center for Environmental Management Information, P.O. Box 23769, Washington, DC 20026–3769, Telephone: 1–800–736–3282 (in Washington, DC 202–863–5084).

For further information regarding disposal of TRU waste at WIPP, contact: Ms. Lynne Smith, WIPP Office (EM–23), Office of Environmental Management, U.S. Department of Energy, 19001 Germantown Road, Germantown, Maryland 20874–1290, Telephone: 301–903–3124.

For further information on the DOE program for the management of TRU

waste at the Mound Plant or this revision to the ROD, contact: Mr. Robert S. Rothman, Miamisburg Environmental Management Project, Ohio Field Office, U.S. Department of Energy, 1 Mound Road, Miamisburg, Ohio 45342, Telephone: 937–865–3823.

For information on DOE's NEPA process, contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, U.S. Department of Energy 1000 Independence Avenue, S.W., Washington, DC 20585, Telephone: 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

The WM PEIS, DOE/EIS–0200F, May 1997, evaluated the potential environmental impacts of treating and storing TRU waste. In the 1998 WM PEIS ROD for TRU waste, DOE decided that ''each of the Department's sites that currently has or will generate TRU waste will prepare and store its waste on site'' prior to shipment to WIPP. (The only exception to this decision was the Sandia National Laboratory in New Mexico, which will ship its waste to the Los Alamos National Laboratory for disposal preparation and storage before disposal in WIPP.) DOE also noted that ''in the future, the Department may decide to ship TRU wastes from sites where it may be impractical to prepare them for disposal to sites where DOE has or will have the necessary capability,'' stating that ''transportation of TRU waste would occur only in situations where the sites at which the waste is located lack the capability to prepare it for disposal.'' The WM PEIS ROD also stated that the sites that could receive TRU waste shipments from other sites were the Idaho National Engineering and Environmental Laboratory, the Oak Ridge National Laboratory, the SRS, and the Hanford Site, and that such decisions would be subject to appropriate review under NEPA.

The Miamisburg Environmental Management Project of the DOE Ohio Field Office is responsible for managing approximately 300 cubic meters of CH–TRU waste from past and present activities and future plans at the Mound Plant. Most of this waste (pipes and waste boxes) is too large to ship in the Type B TRUPACT–II containers that must be used to transport CH–TRU waste to WIPP. The Mound Plant does not possess the necessary facilities or equipment to reduce the size of and repackage the TRU waste to meet WIPP's shipping requirements and therefore would need to establish such a capability at the Mound Plant in order to place its inventory of TRU waste into TRUPACT–II containers for direct shipment to WIPP.

II. Decision

DOE has decided to transfer approximately 300 cubic meters of CH–TRU waste (having a total of approximately 1,000 curies) from the Mound Plant to SRS for storage, characterization, and repackaging for disposal at WIPP. DOE will ship this Mound CH–TRU waste to SRS in OHOX railcars (formerly known as ATMX railcars), in accordance with a DOT exemption from the requirement for shipping this waste in a Type B container. DOE will make up to ten shipments, each with one OHOX railcar loaded with no more than 200 curies of TRU waste.

III. Basis for the Decision

DOE is closing the Mound Plant and the site is being converted into a commercial/industrial park. Given DOE's plan to close the Mound Plant, establishing a new treatment capability at Mound to repackage its TRU waste, as would be necessary to meet the specifications for shipment to WIPP, is not practical or cost-effective. Moreover, the operation and eventual decontamination and decommissioning of such a waste treatment capability at Mound would delay closure of the site and generate additional waste that would require disposal. Thus, DOE needs to ship its TRU waste from the Mound Plant to another site for repackaging for shipment to WIPP.

At SRS, the TRU waste will be managed with TRU waste from SRS; that is, the Mound waste will be stored, characterized, and then repackaged for shipment to WIPP for disposal. SRS is currently managing and will continue to manage large amounts of TRU waste (approximately 12,000 cubic meters through 2033). SRS TRU waste is stored on pads in E-area. DOE has decided to construct and operate the TRU Waste Characterization/Certification Facility at the SRS, in which it will characterize, repackage (including size-reduce), and certify TRU waste for shipment for disposal at WIPP (SRS WM EIS, DOE/EIS–0217F, July 1995, and Supplemental ROD SRS WM, 62 FR 27241, May 1997). Before implementing DOE's plans to construct and operate such a facility (in about 2012), however, DOE will determine what, if any, additional NEPA review is needed.

DOE believes that use of the OHOX railcar will be a safe alternative to use of a Type B container for shipping the Mound TRU waste to SRS because of the terms of the DOT exemption, the design of the OHOX railcar, and the previous safe use record of the OHOX railcar. Under the DOT exemption (DOT–E 5948, June 26, 2000 and in effect through May 2002), the curie content per railcar can be no greater than 200 curies, and there can be no more than ten shipments. With these limitations, DOE has calculated that the risks and consequences of shipping Mound TRU waste in OHOX railcars would be no greater than those estimated in the WM PEIS, even under severe accident conditions.

The design criteria for the OHOX railcar included structural and fire resistant qualities for preventing or mitigating damage to the contents in the event of an accident. The car was originally designed and built for use in transporting nuclear weapons. It can withstand major impacts through its heavy cast-steel underframe and strong superstructure, including cross-bracing of the sides. The cars have been enhanced over the years by structural and insulation modifications and refurbished and certified to meet current railroad and DOT standards.

IV. Mitigation

DOE believes that all practicable means to avoid and minimize environmental harm from implementing this revised decision have already been adopted in the 1998 WM PEIS ROD for TRU waste referenced above. Of particular note is DOE's commitment for assistance to States, tribal and local governments, and other public entities concerning human health and environmental and economic impacts, including transportation planning and emergency response assistance.

V. Prior NEPA Analyses

The WM PEIS evaluated the shipment of approximately 1,390 curies of CH–TRU waste (in ten shipments) in TRUPACT–II containers from Mound to SRS for storage and preparation for disposal as part of the analysis of several Regionalized Alternatives for managing TRU waste. DOE recently prepared a Supplement Analysis for Transportation of TRU Waste from the Mound Plant to the SRS for Repackaging, Characterization, and Storage to determine whether the activities and impacts of transporting Mound TRU waste to SRS in OHOX railcars would present a substantial change in the proposed action relevant to environmental concerns or significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts and, consequently, whether a

supplemental EIS or a new EIS would be needed.

Under the proposed transportation action compared to that analyzed for the WM PEIS, there would be a reduced total number of curies being shipped from the Mound Site to SRS, a lower external exposure rate, and the same or lower number of shipments. Under even severe accident scenarios, the releases of plutonium would be similar to those previously analyzed. The transportation risk analysis DOE prepared to support the DOT exemption for the proposed transportation action is summarized in and attached to the Supplement Analysis. DOE has concluded that the proposed action would not, either under incident-free or accident conditions, present a substantial change relevant to environmental concerns or significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Therefore, DOE concluded that a supplemental EIS or a new EIS is not required under 40 CFR 1502.9(c) or 10 CFR 1021.314(c) to implement this proposal.

Issued in Washington, D.C., this 13 day of July, 2001.

Carolyn L. Huntoon,

Acting Assistant Secretary for Environmental Management.

[FR Doc. 01–18539 Filed 7–24–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Wind Farm at the Nevada Test Site

AGENCY: Department of Energy, National Nuclear Security Administration.

ACTION: Notice of intent.

SUMMARY: The Department of Energy, National Nuclear Security Administration (DOE/NNSA), announces its intention to prepare an environmental impact statement (EIS) for a proposal to allow the Nevada Test Site (NTS) Development Corporation (the designated community reuse organization for the NTS) and M&N Wind Power, Inc. and Siemens (MNS) to construct, operate and maintain a wind farm at the Nevada Test Site. This proposal, if fully implemented, would consist of up to 545 wind turbines generating up to approximately 600 megawatts of electricity. The wind farm would encompass approximately 432 hectares (1069 acres) of land on the NTS. The EIS will address potential environmental impacts of the construction, operation and maintenance of the wind farm.

DATES: Comments on the proposed scope of the Wind Farm EIS are invited from the public. To ensure consideration in the preparation of the EIS, comments must be postmarked by August 24, 2001. Late comments will be considered to the extent practicable. Two public scoping meetings to discuss issues and receive oral comments on the scope of the EIS will be held in southern Nevada. The scoping meetings will provide the public with an opportunity to present comments, ask questions, and discuss concerns with DOE/NNSA officials regarding the EIS. The location, date, and time for these public scoping meetings are as follows:

Las Vegas, Nevada—August 16, 2001 5 p.m.–8 p.m., Department of Energy, National Nuclear Security Administration, Nevada Operations Office, 232 Energy Way, North Las Vegas, Nevada.

Pahrump, Nevada —August 17, 2001 6 p.m.–9 p.m. Bob Rudd Community Center, 150 No. Highway 160, Pahrump, Nevada.

ADDRESSES: General questions concerning the Wind Farm project may be directed to Kevin Thornton at (702) 295–1541 or in writing to: Mr. Kevin Thornton, Department of Energy, National Nuclear Security Administration, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518.

Comments may also be submitted to Mr. Thornton at the address above; or faxed to 1–702–295–2261; or e-mailed to *nepa@nv.doe.gov.* Please mark envelopes, faxes, and E-mail: ''Wind Farm EIS Comments.''

FOR FURTHER INFORMATION CONTACT: For general information on the NNSA NEPA process, please contact: Mr. Henry Garson, NEPA Compliance Officer for Defense Programs, U.S. Department of Energy/NNSA, 1000 Independence Avenue, SW., Washington, DC 20585; or telephone 1–800–832–0885, ext. 30470. For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background: The current power shortage in California has focused national attention on the need for additional generation facilities in the western United States. Additionally, several states have adopted renewable energy portfolio standards requiring utilities to purchase power from renewable energy sources. The proposed facilities would support both the need for additional generation and provide utilities the opportunity to meet their requirements to purchase renewable energy.

As the Federal agency charged with operating and managing the NTS, DOE, in October 1996, prepared a site-wide EIS for the site, ''Final Environmental Impact Statement for the Nevada Test Site and Off Site Locations in the State of Nevada'' (DOE/EIS 0243). The Record of Decision (ROD) for that site-wide EIS stated: ''This decision will result in the continuation of the multipurpose, multi-program use of the Nevada Test Site, under which DOE will pursue a further diversification of interagency, private industry, and public-education uses while meeting its Defense Program, Waste Management, and Environmental Restoration mission requirements.''

Section 3161 of the National Defense Authorization Act for fiscal year 1993 encouraged DOE to minimize the social and economic impacts on workers and communities affected by downsizing of defense-related facilities. One of the methods DOE uses to implement this Congressional direction was to establish local Community Reuse Organizations (CROs) to assist economic development efforts. The CRO for the NTS is the NTS Development Corporation (NTSDC). Among other things, section 3161 authorized DOE to encourage private sector economic development at DOE sites and facilities. The NTS site-wide EIS ROD indicates that as part of its decision, DOE would continue to support ongoing program operations and pursue diversification of use to include non-defense and private use. The proposed wind farm would be a private sector enterprise located on the NTS. The development of the facilities would be authorized pursuant to an easement issued by NNSA, Nevada Operations Office (NV) to NTSDC, and a subsequent sub-easement from NTSDC to MNS, subject to NNSA/NV approval.

DOE has received a proposal from MNS to develop, operate, and maintain a wind farm at the NTS to help fulfill a national need for additional electrical energy generation. The purpose of the proposed facilities would be to provide a viable renewable energy source. DOE believes that the wind farm would be compatible with other NTS missions and programs.

In November 2000, NNSA/NV began preparation of an environmental assessment (EA) for the proposed project. A public scoping meeting for

the EA was held in Pahrump, Nevada, at that time. The Draft EA was provided for review and comment to Nevada State agencies, other Federal agencies, affiliated American Indian tribes, and other interested parties in March 2001. Several issues were raised by the commentors including the surrounding NTS land use, inadequacy of current power distribution systems, and the potential impacts on cultural and biological resources at the proposed sites and the need to gather additional information on these concerns. Based upon its analysis, NNSA/NV has determined that an EA would not support a Finding of No Significant Impact and, therefore, pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), and DOE Regulations Implementing NEPA (10 CFR part 1021), DOE/NNSA has decided to prepare an EIS for the Proposed Wind Farm at the NTS. The Wind Farm EIS will evaluate the environmental impacts associated with the proposed construction and operation of a wind turbine farm at the following alternative locations: (1) Pahute Mesa and the Shoshone Mountain area (the MNS preferred alternative) on the NTS; (2) Skull Mountain on the NTS; and (3) Rainier Mesa on the NTS. It is possible that this list of reasonable alternatives may change during the scoping process. The EIS will also evaluate the no-action alternative of not establishing a wind farm at the NTS.

In association with the preparation of an EIS, NNSA/NV will enter into consultation with the 17 American Indian tribes with established cultural affiliation to the NTS.

Purpose and Need for Agency Action: The NTS Development Corporation, on behalf of MNS, has requested authorization from NNSA (pursuant to an NNSA issued easement and NTSDC sub-easement to MNS), to proceed with the installation and operation of up to 600 megawatts (MW) of wind turbine generated power using as many as 545 wind turbine generators at the NTS. This project is consistent with DOE/NNSA's Congressionally mandated purpose to further diversify and encourage private sector economic development at the NTS. The DOE/NNSA is pursuing alternative uses for the NTS, which has a mandate to support alternative and renewable energy sources. As steward of the NTS, DOE/NNSA must decide if the proposed action is consistent with current and future planned uses of the NTS and what the impacts will be to the environment.

Proposed Action: MNS proposes to develop, operate, and maintain a wind farm at the NTS. These activities would proceed in accordance with an easement to the NTS Development Corporation and sub-easement between the NTS Development Corporation and MNS. The wind farm would consist of as many as 545 wind turbine generators that would generate up to 600 MW of energy. Two general areas of the NTS—the Shoshone Mountain area and the Pahute Mesa area—have been suggested as suitable for wind power development because they are located at high elevations near steep-sided ridges and have winds of sufficient velocity and duration to make wind power economically feasible.

The Shoshone Mountains are located on the NTS in Areas 29 and 30. The proposed Shoshone Mountain wind farm area includes the Shoshone Mountain, Dome Mountain, local north and south ridges in Areas 29 and 30, and Tippipah Ridge in Area 16.

The proposed Pahute Mesa wind farm area is located primarily on the NTS in Area 19 with a few wind turbines to be located in the northwest portion of Area 12.

As currently envisioned, The Shoshone Mountain wind farm would primarily use the wind turbine generators with a three-bladed, upwind, stall-regulated, horizontal axis design. The rotors would have blades that are 25.5 meters (83.6 feet) long. The turbine's nacelles would be mounted on self-supporting tubular steel towers, 55 meters (180 feet) tall, with a bottom diameter of 3.5 meters (11 feet). The concrete foundations for the heavy-duty, tapered, monopole towers would be approximately 5 meters (15 feet) in diameter and 9 meters (30 feet) deep, although final design would depend on site-specific soil conditions. Depending on the final measured winds and siting considerations, MNS may use some larger turbines such as those turbines discussed below, substituting for some or all of the smaller turbines.

The Pahute Mesa wind farm would primarily use turbines with rotor blades as large as 36.5 meters (119 feet), mounted on towers up to 66 meters (217 feet) tall with a bottom flange of 4 meters (13 feet) in diameter. The concrete foundation required for these larger turbines would be approximately 6 meters (19 feet) in diameter and 9 meters (30 feet) deep. Depending on the final measured winds and siting considerations, MNS may use the smaller turbine generators on Pahute Mesa as substitutes for some or all of the larger turbines.

Electrical power from the wind farms would be collected by cable systems and fed to one or two proposed substations on the NTS. Because the existing 138-kilovolt (kV) NTS power loop can handle approximately 85 MW, a limited number of turbines could be interconnected to it at any given time. A new transmission line is proposed to be constructed along the existing Forty Mile Canyon power corridor and brought off site to connect with a new substation proposed to be built.

Alternatives: The alternatives for this project consist of locations on the NTS and a no-action alternative. The alternative sites include: (1) Pahute Mesa and/or the Shoshone Mountain area (the preferred alternative); (2) Skull Mountain; and (3) Rainier Mesa. Off-site locations will not be evaluated because they would not fall within the DOE/NNSA need for considering the request from the NTS development corporation (on behalf of MNS) to site the Wind Farm at the NTS.

Identification of Environmental and Other Issues: The NNSA has identified the following issues for analysis in the EIS. Additional issues may be identified as a result of the scoping process.

1. Impacts to cultural resources with archeological significance on Shoshone Mountain and Pahute Mesa.

2. Impacts to resources/sites important to the 17 native American Indian tribes with cultural affiliation to the NTS.

3. Impacts to plants, animals, and habitats, including threatened or endangered species and their habitats, associated with clearing, grading and constructing roads and operating wind turbines in previously undisturbed areas.

4. The consumption of natural resources and energy associated with constructing and operating a wind turbine farm.

5. Socioeconomic impacts to affected communities from construction and operation associated with locating a wind farm on NTS.

6. A potential need to upgrade or develop new power substations off of the NTS capable of accepting the power generated on the NTS by the wind farm.

7. Cumulative impacts from the proposed action and other past, present, and reasonably foreseeable actions at the alternative sites.

8. Potential irreversible and irretrievable commitments of resources associated with locating, constructing, and operating a wind farm on the NTS.

9. Status of compliance with all applicable Federal, state, and local statutes and regulations; required Federal, state, and tribe environmental

consultations and notifications; and DOE Orders on waste management, waste minimization, and environmental protection.

10. Impacts to air quality, visual resources, NTS and surrounding land uses, NTS missions and infrastructure and impacts to transportation during the construction phase.

EIS Schedule: The sensitivity to respond to the current energy needs has placed this project on an accelerated schedule. To support a Record of Decision for this EIS by April 2002, the major milestones that must be met for the EIS are shown below.

Public Scoping Meetings—August 2001
Issue Draft EIS October—2001
Draft EIS Public Hearings—December 2001
Issue Final EIS—March 2002
Record of Decision—April 2002

Public Scoping Process: To assist in defining the appropriate scope of the EIS and to identify significant environmental issues to be addressed, NNSA representatives will conduct public scoping meetings at the locations, dates, and times described above under **DATES.** Each scoping meeting will begin with an overview of the proposed project, the current EIS alternatives, and the proposed EIS scope. Following the initial presentation, NNSA representatives will answer questions and accept comments. Copies of handouts from the meetings will be available to those unable to attend, by contacting the NNSA as described above under **ADDRESSES.** DOE invites the public to comment on the proposed project. To ensure consideration in the preparation of the EIS, written comments must be postmarked by August 24, 2001.

Issued in Washington, DC, this 17th day of July 2001.

Francis S. Blake,

Deputy Secretary of Energy, Department of Energy.

[FR Doc. 01–18430 Filed 7–24–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Availability of Solicitation

AGENCY: Albuquerque Operations Office, Department of Energy.

ACTION: Notice of availability of solicitation-research and development to increase engine efficiency, reduce emissions, and improvement in systems efficiency for off-highway vehicles, including construction, agriculture, and mining equipment.

SUMMARY: The U.S. Department of Energy (DOE), Albuquerque Operations Office (AL), is seeking applications for research and development to increase engine efficiency, reduce emissions, and improvement in systems efficiency for off-highway vehicles, including construction, agriculture, and mining equipment. Through this solicitation, DOE seeks to improve the energy efficiency and emissions performance of Class 1–8 trucks and off-highway vehicles. A DOE technical panel will perform a scientific and engineering evaluation of each responsive application to determine the merit of the approach. DOE anticipates issuing one or more financial assistance instruments from this solicitation. Funding in the amount of $2,500,000 and $5,000,000 is anticipated to be available. Cost sharing of 50% by the applicant is required.

DATES: Applications are to be received no later than 3 p.m. local prevailing time on August 15, 2001. Any application received after the due date will not be evaluated.

FOR FURTHER INFORMATION CONTACT: Erwin E. Fragua, Contract Specialist, DOE/AL, at (505) 845–6442 or by e-mail at *efragua@doeal.gov.*

SUPPLEMENTARY INFORMATION: The solicitation will be available on the internet on or about July 20, 2001 at the following web site: *http://www.doeal.gov/cpd/default.htm.* Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. For profit and not-for-profit organizations, state and local governments, Indian tribes, and institutions of higher learning are eligible for awards under this solicitation. Collaboration between industry, industry organizations, and universities are encouraged.

Issued in Albuquerque, New Mexico, July 16, 2001.

Martha L. Youngblood,

Contracting Officer, Complex Support Branch, Contracts and Procurement Division.

[FR Doc. 01–18428 Filed 7–24–01; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–576–000, FERC–576]

Proposed Information Collection and Request for Comments

July 19, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before September 24, 2001.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–1415, and by e-mail at *mike.miller@ferc.fed.us.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–576 ''Report by Certain Natural Gas Companies on Service Interruptions'' (OMB No. 1902–0004 is used by the Commission to implement the statutory provisions of Sections 4, 7, 10 and 16, of the Natural Gas Act (NGA)(PL 75–688, 52 Stat. 821–833, 15 U.S.C. 717–717w). The Commission is empowered to oversee continuity of service in the transportation of natural gas in interstate commerce. The information collected by FERC–576 notifies the Commission in a timely manner of any interruption of service or possible hazard to public health or safety.

The Commission in response to timely notification of a serious interruption, may contact other pipelines to determine available supply, and if required, authorize transportation or construction of facilities to alleviate the problem. The data collected pertains to serious interruptions of service to any wholesale customer involving facilities operated under certificate authorization from the Commission. Specifically, the data collected may include: (1) Date of service interruption, (2) date of reporting the interruption to the Commission, (3) the location, (4) brief description of facility involved and cause of interruption, (5) customers affected, (6) duration of interruption, and (7) volumes of gas interrupted.

These data are required by the Commission to provide timely information concerning interruptions to wholesale service. The reporting of

these interruptions will assist the Commission and the natural gas industry in fulfilling their obligations to the public to provide better service through increased efficiency and reliability. The data required to be filed for notification of interruptions is specified by 18 Code of Federal Regulations (CFR) 260.9.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually	Number of responses per respondent	Average burden hours per response	Total annual burden hours
(1)	(2)	(3)	(1)×(2)×(3)
15	1	1	15

The estimated total cost to respondents is $844 (15 hours divided by 2,080 hours per year per employee times $117,041 per year per average employee = $844). The cost per respondent is $56.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, 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 *e.g.* permitting electronic submission of responses.

David P. Boergers,

Secretary.

[FR Doc. 01–18487 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–200–002 and RP01–350–001]

Colorado Interstate Gas Company; Notice of Compliance

July 19, 2001.

Take notice that on July 12, 2001, Colorado Interstate Gas Company (CIG) tendered for filing to become part its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on the Appendix attached to the filing, to become effective July 1, 2001.

CIG states that the tendered tariff sheets implement the rates and terms and conditions of service set forth in the Stipulation and Agreement approved in this proceeding for CIG's new Scheduled Imbalance Penalty and interruptible Automatic Parking and Lending Service.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18499 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–325–004]

Colorado Interstate Gas Company; Notice of Compliance Filing

July 20, 2001.

Take notice that on July 16, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Fifth Revised Sheet No. 279B, which replaces a sheet filed on July 2, 2001 in CIG's Order No. 637 proceeding at Docket No. RP00–325–000.

CIG states that the revised sheet proposes to remove the thermal content restriction on delivery points used in segmented transactions. The sheet is proposed to become effective on October 1, 2001.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are

on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18512 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–432–002]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 12, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing a compliance filing in Docket No. RP01–432.

On June 27, 2001, the Commission issued an order in the above referenced docket (June 27 Order). The Commission noted, however, that a pipeline must demonstrate that the filed for service ''could not be provided under a generally applicable tariff.'' The Commission also found that Columbia ''had not provided sufficient information for other shippers to evaluate the operational impact of Columbia's proposed service.'' Columbia therefore was ordered to file the supporting information within 15 days. Columbia is submitting the instant filing in compliance with these directives.

Columbia states that copies of its filing have been mailed to all parties on the official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18502 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–432–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 12, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Sub First Revised First Revised Sheet No. 500B bearing a proposed effective date of June 1, 2001.

Columbia states that the instant filing is being made to comply with an Order (Order) issued by the Commission on June 27, 2001. On May 29, 2001 Columbia made a filing with the Commission to re-file service agreements with FirstEnergy Trading Services Inc (FirstEnergy) as non-conforming service agreements to be effective June 1, 2001. The Order accepted the filing conditioned on Columbia re-filing Sheet No. 500B. In the May 29, 2001, filing Columbia inadvertently neglected to list the ''Docket No.'' applicable to the FirstEnergy contracts. The tariff sheet in the instant filing is being made to correct this oversight.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18503 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT01–4–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

July 20, 2001.

Take notice that on July 13, 2001, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed below to become effective August 12, 2001. DIGP states that it no longer has a marketing affiliate and is revising the tariff accordingly.

First Revised Sheet No. 109
Second Revised Sheet No. 243

DIGP states that copies of the filing are being served on its customers and other interested parties.

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. This filing may also be

viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary,

[FR Doc. 01–18515 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

[Docket No. RP01–359–002]

Dominion Transmission, Inc.; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 12, 2001, Dominion Transmission Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of June 27, 2001:

First Revised Sheet No. 1132
First Revised Sheet No. 1133
First Revised Sheet No. 1134

DTI states that the filing is being made in compliance with the Commission's Letter Order, dated June 27, 2001, in Docket No. RP01–359–001.

DTI states that First Revised Tariff Sheets Nos. 1132–1134 eliminate the stranded cost tracking mechanism contained in Section 18.2.B of the General Terms and Conditions of DTI's FERC Gas Tariff.

Section 18.2 of the General Terms & Conditions requires DTI to make quarterly stranded cost filings. On May 15, 2001, DTI requested a waiver of the requirement to return excess collections received through the stranded cost tracking mechanism. In support of its request, DTI stated that the contracts responsible for the stranded costs have expired on their own terms. The Commission granted the waiver but directed DTI to eliminate Section 18.2.B because it was no longer needed.

DTI states that copies of its letter of transmittal and enclosures have been served upon the parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18508 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–336–003]

El Paso Natural Gas Company; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 9, 2001, El Paso Natural Gas Company (El Paso) tendered for filing a compliance filing pursuant to the Order Denying Protest and Accepting Withdrawal of Prior Notice Request issued June 28, 2001, at Docket Nos. CP01–90–000 and RP00–336–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18495 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–486–000]

Texas, New Mexico and Arizona Shippers, Complainants v. El Paso Natural Gas Company, Respondent; Notice of Complaint

July 19, 2001.

Take notice that on July 17, 2001, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206, Texas, New Mexico and Arizona Shippers (Complainants) filed a complaint under Section 5 of the Natural Gas Act, against El Paso Natural Gas Company (El Paso).

Complainants allege that El Paso's over-selling of firm capacity violated the Natural Gas Act, the Commission's regulations thereunder, and represent a breach of El Paso's contractual obligations. Complainants request that the Commission order appropriate relief.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before August 6, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before August 6, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18507 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–36–002]

Guardian Pipeline, L.L.C.; Notice of Amendment

July 19, 2001.

Take notice that on July 13, 2001, Guardian Pipeline, L.L.C. (Guardian), 330 Town Center Drive, Suite 900, Dearborn, Michigan 48126–2712, filed in Docket No. CP00–36–002, an amendment pursuant to Section 7(c) of the Natural Gas Act to its certificate of public convenience and necessity issued by the Commission in this proceeding on March 14, 2001, filed in Docket No. CP01–36–000. With this amendment, Guardian is requesting authority that the Commission vacate the portion of the certificate authorizing construction of the Guardian Eagle Lateral pipeline, an 8.5 mile, 16-inch diameter lateral, located in Walworth and Waukesha Counties, Wisconsin and permit Guardian to modify the location of certain metering and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' from the RIMS Menu and follow the instructions (call (202) 208–2222 for assistance).

Guardian states that it is requesting that the Commission vacate the portion of the certificate authorizing construction of the Guardian Eagle Lateral, because subsequent to the Commission's issuance of the certificate order, Northern Natural Gas Company (Northern) and Wisconsin Gas Company (Wisconsin Gas) have entered into an agreement by which Northern will sell to Wisconsin Gas an existing 9 mile, 24-inch diameter pipeline, the East Leg facilities (CP01–401–000) that generally runs parallel to Guardian's Eagle Lateral.

Guardian states that if Northern's abandonment by sale to Wisconsin Gas of the East Leg facilities is approved, Guardian will be able to deliver gas directly into Wisconsin Gas' facilities from the Guardian mainline to access the same markets that would have been accessed through the Guardian Eagle Lateral. Guardian declares that then they will not need to construct the Eagle Lateral. Guardian also states that by not needing to build the Eagle Lateral, it will reduce landowner and environmental impacts. Guardian also requests that its certificate be amended to permit Guardian to modify the location of their metering and related facilities that originally were proposed to be located at Eagle, Wisconsin to the Bluff Creek Meter Station, so that both Guardian and Northern will be able to deliver gas into the Wisconsin Gas Hinshaw system through a single Wisconsin Gas-owned line.

Guardian states that they would retain the capacity to deliver up to 300,000 Dth/day into the Wisconsin Gas system, the same capacity as Guardian's certificated Eagle meter station. Guardian states that the total project cost will not be affected by this change, as Guardian's estimated project cost remains $224.3 million, excluding allowance for funds used during construction.

Any questions regarding this amendment should be directed to Molly Mulroy, Guardian Pipeline, L.L.C., P.O. Box 544, Milwaukee, Wisconsin 53201, or at (1–800) 782–7182.

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 August 9, 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 under the ''e-Filing'' link.

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. 01–18483 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–93–001]

Kern River Gas Transmission Company; Notice of Compliance Filing

July 20, 2001.

Take notice that on July 16, 2001, Kern River Gas Transmission Company (Kern River) tendered for filing its compliance filing in response to the directives in the Commission's June 15, 2001 Order Accepting Filing Subject to Condition (Order).

Kern River states that the purpose of this filing is to respond to the issues related to imbalance netting and trading that were raised in the body of the Order and to the specific questions listed in the Appendix to the Order.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18513 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–343–003]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 13, 2001, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing the *pro forma* tariff sheets, listed on Appendix A to the filing.

KMIGT is filing the above-referenced tariff sheets in compliance with the Commission's Order No. 637 and with the Commission's Letter Order dated June 29, 2001 in Docket No. RP00–343.

KMIGT states that a copy of this filing has been served upon all parties on the official service list for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18497 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–438–002]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 11, 2001, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1–A , the following tariff sheet, to be effective July 1, 2001:

Substitute Original Sheet No. 148B

KMIGT states that the tariff sheet is being submitted to comply with the Commission's June 29, 2001 Order in this proceeding.

KMIGT states that a copy of this filing has been served upon all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18504 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–485–000]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Waiver Request

July 19, 2001.

Take notice that on July 11, 2001 Kinder Morgan Interstate Gas Transmission LLC (KMIGT) filed a request for a one-time waiver of certain notice and timing requirements of Section 18 of its FERC Gas Tariff, Volume No. I–B, relating to the Right of First Refusal process with respect to three transportation paths under a contract with Oneok Energy Marketing & Trading that expire on August 31, 2001 and September 30, 2001.

KMIGT requests that it be allowed (1) waiver of the pre-posting notice requirements, (2) to use an iterative bidding process limited to one or two rounds, if necessary, and to shorten the times established for activities in that process, and (3) to shorten the required time frame between the end of the bidding process and contract expiration from 45 days to no less than 28 days.

KMIGT states that copies of the filing have been served upon mainline transportation and storage shippers and affected state regulatory bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18506 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–53–000]

Kinder Morgan Interstate Gas Transmission, LLC; Notice of Informal Settlement Conference

July 20, 2001.

An informal settlement conference in the above docket will be held on Tuesday, July 31, 2001, to address the outstanding ad valorem tax issues on the Kinder Morgan Interstate Gas Transmission, LLC system. The conference will be held in the offices of Kinder Morgan, 370 Van Gordon Street, Lakewood, Colorado, 80228. The informal settlement conference will begin at 10 a.m.

All interested parties in the above docket are requested to attend the informal settlement conference. If a party has any questions regarding the conference, please call Richard Miles, the Director of the Commission's Dispute Resolution Service on 1 877 FERC ADR (337–2237) or 202/208–0702 and his e-mail address is *richard.miles@ferc.fed.us* or Steven Rothman on 202/208–2278 and his e-mail address is *steven.rothman@ferc.fed.us.* If you plan on attending the conference, please contact Ben Breland at Kinder Morgan by fax at 303–763–3116.

David P. Boergers,

Secretary.

[FR Doc. 01–18511 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–487–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

July 20, 2001.

Take notice that on July 17, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to be effective August 17, 2001:

Second Revised Sheet No. 274
Second Revised Sheet No. 275
First Revised Sheet No. 276

Natural states that these sheets were filed to update Section 14 of the General Terms and Conditions in Natural's Tariff, which is the tariff provision governing unauthorized gas.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18514 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–401–000]

Northern Natural Gas Company; Notice of Application

July 19, 2001.

Take notice that on July 13, 2001, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska 68103–0330, filed in Docket No. CP01–401–000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon, by sale to Wisconsin Gas Company (Wisconsin Gas), pipeline and related facilities, located in Walworth and Waukesha Counties, Wisconsin, and to abandon certain services rendered thereby, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' from the RIMS Menu and follow the instructions (call (202) 208–2222 for assistance).

Northern proposes to abandon, by sale to Wisconsin Gas the last approximately 9 miles of 24-inch diameter pipeline and appurtenant facilities, which include certain piping, valves, and fittings located at Northern's LaGrange and Eagle Delivery points and valves, a pig receiver, cathodic protection equipment, and other related facilities associated with the 24-inch pipeline (East Leg facilities) and to abandon certain services rendered thereby. Northern also proposes to abandon the measurement equipment located at the LaGrange and Eagle delivery points. In

addition, Northern proposes to abandon and remove the measurement equipment located at a dual farm tap setting. Northern states that these measurement facilities will no longer be required by Northern once the East Leg facilities are acquired by Wisconsin Gas, as proposed herein.

Northern states that Wisconsin Gas is a local distribution company and is exempt from the Commission's jurisdiction under the Hinshaw amendment. Northern declares that upon completion of the acquisition of facilities, Wisconsin Gas will integrate the facilities it acquires from Northern into its existing pipeline system and thus will operate the facilities as a part of its local distribution company system, which is exempt from the Commission's jurisdiction pursuant to Section 1(c) of the NGA, the Hinshaw exemption.

Therefore, Northern requests that the Commission make a determination that the subject facilities are exempt from the Commission's jurisdiction under Section 1(c) of the NGA upon approval of the proposed abandonment by Northern and the subsequent acquisition by Wisconsin Gas, and that Wisconsin Gas' acquisition and operation of the subject facilities will not affect Wisconsin Gas' exemption from Commission jurisdiction under Section 1(c) of the NGA or otherwise subject Wisconsin Gas to Commission jurisdiction.

Northern proposes to abandon all firm and interruptible transportation service provided on the subject facilities. Northern states that it has notified all firm shippers with primary delivery points located on the subject facilities of its intent to abandon the subject facilities by sale to Wisconsin Gas. Northern states that all firm shippers have the opportunity prior to abandonment of the subject facilities to realign firm entitlements currently assigned to point(s) on the subject facilities to any other valid transportation point(s) on Northern's pipeline system, subject to availability of capacity at such point(s) and Northern's FERC Gas Tariff.

Any questions regarding this amendment should be directed to Keith L. Petersen, Director, Certificates and Reporting, Northern Natural Gas Company, 1111 South 103rd Street, Omaha, Nebraska 68124, at (402) 398–7421, or Michelle Winckowski, Senior Regulatory Analyst, at (402) 398–7082.

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 August 9, 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 under the ''e-Filing'' link.

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. 01–18485 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–359–002]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 19, 2001.

Take notice that on July 10, 2001, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets proposed to be effective August 1, 2001.

Fifteenth Revised Sheet No. 54
2nd Revised Sheet No. 54A
Thirteenth Revised Sheet No. 61
Thirteenth Revised Sheet No. 62
Thirteenth Revised Sheet No. 63
Thirteenth Revised Sheet No. 64
Second Revised Sheet No. 300A
Fifth Revised Sheet No. 301
Third Revised Sheet No. 301A

Northern states that the revised tariff sheets are being filed in acccodance with the Technical Conference held June 26, 2001, which addressed issues in Northern's annual PRA filing.

Northern further states that copies of the filing have been mailed to each of

its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18500 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–160–001]

Northwest Alaskan Pipeline Company; Notice of Filing

July 19, 2001.

Take notice that on June 4, 2001, Northwest Alaskan Pipeline Company (Northwest Alaskan) submitted for filing a Notice of Termination of its entire FERC Gas Tariff, Original Volume No. 2. Northwest Alaskan states that it has entered into agreements with its only jurisdictional customer, Pan-Alberta Gas (U.S.) Inc. , to terminate their gas purchase agreements, subject to the receipt of all necessary regulatory approvals. Northwest Alaskan requests that the Notice of Termination become effective on the day after the day on which the parties close their transaction. Northwest Alaskan states that the parties anticipate closing the transaction on or before June 30, 2001, and that Northwest Alaskan will notify the Commission when the closing has occurred. In the event that the proposed effective date falls less than 30 days after the date of the instant filing, Northwest Alaskan requests waiver of 18 CFR 154.602 to permit the Notice of Termination to become effective as proposed.

Northwest Alaskan states that it is serving copies of the instant application on its affected customers.

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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18484 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–416–001]

Northwest Pipeline Corporation; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 13, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing an explanation of why the cost sharing mechanism Northwest has proposed in this proceeding is appropriate only when a shipper elects to pay for lateral facilities under a facility surcharge method of reimbursement.

Northwest states that the purpose of this filing is to comply with the Commission's Order Accepting Tariff Sheets Subject to Conditions, issued June 13, 2001 in Docket No. RP01–416–000. Northwest states that it has submitted an explanation of why the cost mechanism proposed by Northwest in this docket is only appropriate when a shipper has elected the facility surcharge method of reimbursement for lateral facilities and not the lump sum payment method.

Northwest states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18501 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2086–000]

San Manuel Power Co. LLC; Notice of Issuance of Order

July 19, 2001.

San Manuel Power Co. LLC (San Manuel) filed with the Commission, in the above-docketed proceeding, an application under section 205 of the Federal Power Act seeking to sell energy and capacity at market-based rates under the terms of its proposed FERC Electric No. 1. San Manuel's filing also requested certain waivers and authorizations. In particular, San Manuel requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by San Manuel. On July 17, 2001, the Commission issued an order that

accepted the tariff for sales of capacity and energy at market-based rates (Order), in the above-docketed proceeding.

The Commission's July 17, 2001 Order granted San Manuel's request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by San Manuel 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.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, San Manuel is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of San Manuel, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of San Manuel's issuances of securities or assumptions of liabilities * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 16, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18486 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–514–003]

Southern Natural Gas Company; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 12, 2001, Southern Natural Gas Company (Southern), tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets, to become effective October 1, 2001:

Substitute First Revised Sheet No. 101A
2nd Substitute Original Sheet No. 101B
2nd Substitute 1st Revised Sheet No. 102
2nd Substitute Original Sheet No. 102A
Substitute Third Revised Sheet No. 116

Southern states that the purpose of the filing is to comply with the Commission's order dated July 2, 2001 in the above-referenced docket. Such order required Southern to make a compliance filing (i) to eliminate Southern's ability to award requests as they come in and to require Southern to award available firm capacity under an open season process; (ii) to specify the number of days that Southern will take to evaluate bids made in an open season; and (iii) to clarify that any pending Primary Receipt Point amendments will be awarded first on a first-come, first-served basis before any awards of Receipt Point capacity may be awarded for the applicable Receipt Point in an open season. Southern has stated that it will award the winning bidder within 14 business days of the close of the open season.

Southern has also clarified that it must have an open season if it receives in writing any requests for available firm capacity, unless the request is for capacity that has already been offered in an open season and the request is lower than the reserve price established in the open season. In addition, Southern has stated that it will post available firm capacity under Section 284.13(d) as it becomes available.

Southern has requested that these sheets be made effective as of October 1, 2000 consistent with the Commission's July 2nd Order.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18498 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–027]

TransColorado Gas Transmission Company; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 10, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of July 10, 2001:

Twenty-Seventh Revised Sheet No. 21
First Revised Sheet No. 22A

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets revised TransColorado's Tariff to reflect one new negotiated-rate contract.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section

154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18493 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–028]

TransColorado Gas Transmission Company; Notice of Compliance Filing

July 19, 2001.

Take notice that on July 13, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of July 12, 2001:

Eighth Revised Sheet No. 21
Second Revised Sheet No. 22A

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000. The tendered tariff sheets revised TransColorado's Tariff to reflect one new negotiated-rate contract.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18494 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–029]

TransColorado Gas Transmission Company; Notice of Compliance Filing

July 20, 2001.

Take notice that on July 17, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff Original Volume No. 1, the following tariff sheets, with an effective date of July 12, 2001:

Twenty-Ninth Revised Sheet No. 21
Third Revised Sheet No. 22A.

TransColorado states that the tariff sheets are being filed in compliance with the Commission's letter order issued March 20, 1997, in Docket # RP97–255–000.

TransColorado states that the tendered tariff sheets revised TransColorado's Tariff to reflect an amended negotiated-rate contract.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18510 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–470–001]

Trunkline LNG Company; Notice of Proposed Changes in FERC Gas Tariff

July 19, 2001.

Take notice that on July 10, 2001, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1-A, the following tariff sheet to be effective August 1, 2001:

Sub Fifth Revised Sheet No. 5

TLNG states that this filing is made to supplement TLNG's filing of June 29, 2001 in the subject docket which was filed in accordance with Section 19 (Fuel Reimbursement Adjustment) and Section 20 (Electric Power Cost Adjustment) of the General Terms and Conditions (GT&C) of TLNG's FERC Gas Tariff, Original Volume No. 1–A. TLNG's June 29, 2001 filing did not change the minimum rate to reflect the proposed August 1, 2001 rate change under Section 20 of the GT&C. The substitute tariff sheet updates the minimum usage rate for service under TLNG's Rate Schedules FTS and ITS to correspond with the rate change filed on June 29, 2001 in the subject docket.

TLNG states that copies of this filing are being served on all affected customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section

154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docketı'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18505 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–26–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

July 20, 2001.

Take notice that on July 16, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective July 16, 2001:

Third Revised Sheet No. 537
Third Revised Sheet No. 587

Williston Basin states that it has revised the above-referenced tariff sheets found in the Form of Transportation Service Agreement Section under Rate Schedules FTN–1 and STN–1 of its Tariff, to rename a line section. The line section is being renamed from (Tioga-Lignite) to (Portal-Tioga) to more clearly identify the line section.

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. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18509 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–117–000, et al.]

Mobile Energy LLC, et al.; Electric Rate and Corporate Regulation Filings

July 18, 2001.

Take notice that the following filings have been made with the Commission:

1. Mobile Energy LLC, Skygen Investors LLC, Intergen North America, Development Company LLC, Tejas Power Generation LLC

[Docket No. EC01–117–000]

Take notice that on July 6, 2001, Mobile Energy LLC (Mobile), SkyGen Investors LLC (SkyGen), InterGen North America Development Company LLC (InterGen), and Tejas Power Generation LLC (Tejas) (collectively, Applicants) submitted for filing an amendment to the 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 InterGens affiliate Tejas to SkyGen or its affiliate.

Comment date: August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp

[Docket Nos. ER01–1353–000, ER01–1354–000 and ER01–1355–000 (Not consolidated)]

Take notice that on July 2, 2001, Deseret Generation & Transmission Co-operative, Inc., on behalf of itself, Utah Associated Municipal Power Systems, Utah Municipal Power Agency, and PacifiCorp, tendered for filing a Second Joint Status Report on the status of the negotiations in the above captioned proceedings.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

3. Duke Energy Corporation

[Docket No. ER01–1616–003]

Take notice that on July 13, 2001, Duke Energy Corporation (Duke) filed a compliance filing submitting revisions to its OATT and an unexecuted Interconnection and Operating Agreement with Carolina Power & Light Company in the above-captioned docket.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Central Illinois Light Company

[Docket No. ER01–1768–001]

Take notice that on July 13, 2001, Central Illinois Light Company (CILCO), of Peoria, Illinois tendered for filing with the Commission a revised cover page for its Agreement with Altorfer Inc.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Tampa Electric Company

[Docket No. ER01–1898–001]

Take notice that on July 13, 2001, Tampa Electric Company (Tampa Electric) refiled its interchange service contract with Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company, and Southern Company Services, Inc. (collectively, Southern Companies) in the format required by the Commission's Order No. 614. The filing was made in compliance with the Commission's letter order dated June 19, 2001, in Docket No. ER01–1898–000.

A copy of the compliance filing has been served on each person designated on the official service list in this docket, the Southern Companies, and the Florida Public Service Commission.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Calhoun Power Company, LLC

[Docket No. ER01–2074–001]

Take notice that on July 13, 2001, Calhoun Power Company, LLC (Calhoun) tendered for filing revised tariff sheets to Gray County's FERC Electric Tariff, Original Volume No.1 in compliance with the Letter Order issued on July 11, 2001 in this Docket No. ER01–2074–000 and a designation for

its long term power purchase agreement. The tariff revision specifies the ancillary services Calhoun intends to provide and the ISO in which it intends to provide each service, and omits a provision to sell products that are not ancillary services within the meaning of Order No. 888.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Morrow Power, LLC

[Docket No. ER01–2509–000]

Take notice that on July 3, 2001, Morrow Power, LLC (Morrow Power) petitioned the Federal Energy Regulatory Commission (Commission) on June 28, 2001, for authority to sell electricity at market-based rates under Section 205(a) of the Federal Power Act for granting of certain blanket approvals and for the waiver of certain Commission regulations. Morrow Power is a limited liability company that proposes to engage in the wholesale sale of electric power in the State of Oregon.

Comment date: July 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER01–2564–000]

Take notice that on July 10, 2001, Arizona Public Service Company (APS) tendered for filing a revised Contract Demand Exhibit I applicable under the APS–FERC Rate Schedule No. 192 between APS and the city of Williams (Williams) for the operating year 2002.

Copies of this filing have been served on the city of Williams (Williams), and the Arizona Corporation Commission.

Comment date: July 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company/ Kentucky Utilities Company

[Docket No. ER01–2579–000]

Take notice that on July 13, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed interconnection and operating agreement with Bluegrass Generation Company, LLC. (Bluegrass). This agreement outlines the requirements that allows Bluegrass to connect to the Companies transmission system in anticipation of purchasing transmission service at some future date.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Progress Energy Inc. on behalf of Carolina Power & Light Company

[Docket No. ER01–2580–000]

Take notice that on July 13, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Service Agreement between CP&L and the following eligible buyer, Ameren Energy, Inc. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4, for sales of capacity and energy at market-based rates. Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

CP&L requests an effective date of July 12, 2001 for this Service Agreement.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Progress Energy Inc. on behalf of Carolina Power & Light Company

[Docket No. ER01–2581–000]

Take notice that on July 13, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Service Agreement between CP&L and the following eligible buyer, American Electric Power Service Corporation as agent for the AEP Operating Companies. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4, for sales of capacity and energy at market-based rates. Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

CP&L requests an effective date of July 12, 2001 for this Service Agreement.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Southern California Edison Company

[Docket No. ER01–2582–000]

Notice is hereby given that effective September 13, 2000, Rate Schedule FERC Nos. 286, 286.1, 286.1.1, 286.2, and 286.3, effective June 1, 1996, and filed with the Federal Energy Regulatory Commission by Southern California Edison Company are to be canceled.

Notice of the proposed cancellation has been served upon the Public Utilities Commission of the State of California and Nevada Power Company.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Northeast Utilities Service Company (Connecticut—Long Island Cable)

[Docket No. ER01–2584–000]

Take notice that on July 13, 2001, Northeast Utilities Service Company (NUSCO), on behalf of a yet-to-be-named affiliate or affiliates (NUSUB), tendered for filing, under section 205 of the Federal Power Act, a rate schedule under which NUSUB will provide transmission service over a proposed non-rate based transmission facility connecting Norwalk, Connecticut and Long Island, New York.

An effective date of September 30, 2001, is requested.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ERO1–2585–000]

Take notice that on July 13, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed unilateral Service Sales Agreement between Companies and Exelon Generation Company, LLC. under the Companies' Rate Schedule MBSS.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. ARE Generation Company, L.L.C.

[Docket No. ER01–2586–000]

Take notice that on July 13, 2001, ARE Generation Company, L.L.C. (AGC) petitioned the Federal Energy Regulatory Commission to grant certain blanket authorizations, to waive certain of the Commission's Regulations and to issue an order accepting AGC's FERC Electric Tariff, Original Volume No. 1.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Company Services, Inc.

[Docket No. ER01–2587–000]

Take notice that on July 13, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company), filed two (2) service agreements for long-term firm point-to-point transmission service between SCS, as agent for Southern Company, and the following entities: (i) Georgia Electric Marketing (Regarding OASIS Request 170426); and (ii) Southern Wholesale Energy (Regarding OASIS Requests 214519 and 214520)

under the Open Access Transmission Tariff (Tariff) of Southern Company (FERC Electric Tariff, Fourth Revised Volume No. 5).

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Xcel Energy Services, Inc.

[Docket No. ER01–2588–000]

Take notice that on July 13, 2001, Xcel Energy Services, Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), submitted for filing an Agreement for Services between Public Service and Colorado River Commission (CRC), which is in accordance with Public Service's Rate Schedule for Market-Based Power Sales (Public Service FERC Electric Tariff, First Revised Volume No. 6). XES requests that this agreement become effective on July 12, 2001.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Virginia Electric and Power Company

[Docket No. ER01–2589–000]

Take notice that on July 13, 2001, Virginia Electric and Power Company (Dominion Virginia Power or the Company) Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers effective June 7, 2000.

Copies of the filing were served upon Dominion Energy Clearinghouse, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Dominion Virginia Power requests an effective date of July 13, 2001.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Virginia Electric and Power Company

[Docket No. ER01–2590–000]

Take notice that on July 13, 2001, Virginia Electric and Power Company (Dominion Virginia Power or the Company) tendered for filing the foregoing Service Agreements under the Open Access Transmission Tariff to Eligible Purchasers effective June 7, 2000. Under the tendered Service Agreements, Dominion Virginia Power will provide point-to-point service to Engage Energy America LLC under the rates, terms and conditions of the Open Access Transmission Tariff. Dominion Virginia Power requests an effective date of July 13, 2001, the date of filing of the service agreement.

Copies of the filing were served upon Engage Energy America LLC, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Jersey Central Power and Light Company

[Docket No. ER01–2594–000]

Take notice that on July 13, 2001, Jersey Central Power and Light Company (doing business as and hereinafter referred to as GPU Energy) hereby submits for filing a Distributed Resource Purchase Tariff under which GPU Energy will purchase electricity from retail customers in New Jersey who own on-site electric generation capacity primarily utilized for standby electric generation. In addition, GPU Energy requests waiver of certain Commission regulations and market-based rate authority for the Participants.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Cordova Energy Company LLC

[Docket No. ER01–2595–000]

Take notice that on July 13, 2001, Cordova Energy Company LLC (Cordova) tendered for filing under its market-based rate schedule a Power Purchase Agreement (Agreement) between Cordova and El Paso Power Services Company, dated July 6, 1999. Cordova requests an effective date of June 13, 2001.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18447 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–62–032, et al.]

New England Inc., et al.; Electric Rate and Corporate Regulation Filings

July 19, 2001.

Take notice that the following filings have been made with the Commission:

1. ISO New England Inc., New England Power Pool

[Docket Nos. EL00–62–032]

Take notice that on July 13, 2001, ISO New England Inc. submitted its Report of Compliance in response to the Commission's June 13, 2001 Order in these proceedings.

Copies of said filing have been served upon all parties to this proceeding, upon NEPOOL Participants, and upon all non-Participant entities that are customers under the NEPOOL Open Access Transmission Tariff, as well as upon the utility regulatory agencies of the six New England States.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. ISO New England Inc., New England Power Pool

[Docket Nos. EL00–62–033 and ER98–3853–010 (Not consolidated)]

Take notice that on July 13, 2001, the New England Power Pool (NEPOOL) Participants Committee filed a Report of Compliance which included amendments to the Restated NEPOOL Agreement, NEPOOL Tariff, Market Rule and Procedure 5, and the Implementation Rule to Attachment F of the NEPOOL Tariff. NEPOOL states that these changes are intended to effect compliance with the Commission's June 13, 2001 orders in Docket Nos. EL00–62–004 *et al., ISO New England Inc.,* 95 FERC ¶61,384 (2001) and in Docket No. ER98–2335–005, *New England Power Pool,* 95 FERC ¶61,383 (2001).

The NEPOOL Participants Committee states that copies of these materials were sent to all persons on the Commission's official services lists in these

proceedings, the NEPOOL Participants, Non-Participant Transmission Customers, and the New England state governors and regulatory commissions.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. ISO New England Inc., New England Power Pool

[Docket Nos. EL00–62–033 and ER98–3853–010]

Take notice that on July 17, 2001, the New England Power Pool (NEPOOL) Participants Committee filed a supplement to its July 13, 2001 Report of Compliance, which proposed amendments to the Restated NEPOOL Agreement, NEPOOL Tariff, Market Rule 5 and the Implementation Rule to Attachment F of the NEPOOL Tariff in order to effect compliance with the Commission's June 13, 2001 orders in Docket Nos. EL00–62–004 *et al., ISO New England Inc.,* 95 FERC ¶ 61,384 (2001) and in Docket No. ER98–3853–005, *New England Power Pool,* 95 FERC ¶ 61,383 (2001). NEPOOL's July 17, 2001 supplement informs the Commission that no appeals have been filed concerning the Market Rule changes proposed in the Report of Compliance.

The NEPOOL Participants Committee states that copies of these materials were sent to all persons on the Commission's official services lists in these proceedings, the NEPOOL Participants, Non-Participant Transmission Customers, and the New England state governors and regulatory commissions.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. USGen New England, Inc.

[Docket No. EL01–103–000]

Take notice that on July 16, 2001, USGen New England, Inc. (USGenNE) tendered for filing a Petition for a Declaratory Order requesting a Commission ruling regarding the provision of station power to USGenNE.

Comment date: August 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Dynegy Power Marketing, Inc., Complainant v. Southwest Power Pool, Inc. Respondent

[Docket No. EL01–104–000]

Take notice that on July 17 , 2001, Dynegy Power Marketing, Inc. (Dynegy) tendered for filing a Complaint against the Southwest Power Pool, Inc., (SPP).

In its Complaint, Dynegy alleges that the SPP has violated its Open Access Transmission Tariff (OATT) by unreasonably restricting Point-to-Point Transmission Services customers' right to change of receipt and delivery points on a firm basis. Dynegy has requested Fast Track Processing of its Complaint.

Comment date: July 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. AES Medina Valley Cogen, L.L.C.

[Docket No. ER01–788–001]

Take notice AES Medina Valley Cogen, L.L.C. (Medina), Mossville, Illinois, on July 16, 2001, made a filing with the Commission of a Revised Tolling Agreement with Central Illinois Light Company to make energy sales.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: August 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Mid-Continent Area Power Pool

[Docket No. ER01–2207–000]

Take notice that on July 16, 2001, the Mid-Continent Area Power Pool (MAPP), on behalf of its public utility members, notified the Commission that the NERC automated generation to load process has been integrated into the current MAPP system and to request that the Commission accept its proposed amendments to Schedule F, implementing the NERC TLR procedures, to become effective on July 16, 2001.

Copies of this filing have been served on each person designated on the official service list compiled by the Secretary in this proceeding. In addition, a copy of this filing has been provided to all MAPP members as well as the affected state commissions in the MAPP region.

Comment date: August 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Virginia Electric and Power Company

[Docket No. ER01–2403–001]

Take notice that on July 16, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing a substitute executed Generator Interconnection and Operating Agreement (Substitute Interconnection Agreement) with Tractebel North America Services, Inc. (Tractebel) for the Tractebel Phase I Project. The Substitute Interconnection Agreement includes two typographical corrections and a clarification to an appendix in the original Generator Interconnection and Operating Agreement previously filed in this docket. Consistent with its earlier filing, Dominion Virginia Power requests that Commission accept this filing to make the Substitute Interconnection Agreement effective on August 22, 2001.

Copies of the filing were served upon Tractebel North America Services, Inc. and the Virginia State Corporation Commission.

Comment date: August 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. American Transmission Company LLC

[Docket No. ER01–2591–000]

Take notice that on July 13, 2001, American Transmission Company LLC (ATCLLC) tendered for filing a long-term Firm Point-to-Point Service Agreement for Alliant Energy Corporate Services Inc. and short-term firm and non-firm Point-to-Point Service Agreements for Constellation Power Source, Inc.

ATCLLC requests any necessary waivers of the Commission's regulations to allow an effective date of January 1, 2001.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER01–2592–000]

Take notice that on July 13, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) requested the Commission to approve its amendments to the Bylaws, as well as the Agreement of Transmission Facilities Owners to Organize the Midwest ISO with regard to (i) the manner in which succeeding Directors are elected to the Midwest ISO Board of Directors and (ii) the inclusion of certain categories of business transactions to the list of topics which may be discussed during confidential executive sessions of the Board of Directors. Copies of this filing were electronically served upon Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region.

The Midwest ISO requests that the amendments become effective September 1, 2001.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Virginia Electric and Power Company

[Docket No. ER01–2593–000]

Take notice that on July 13, 2001, Virginia Electric and Power Company (Dominion Virginia Power or the Company) tendered for filing the Service Agreement for Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Five Forks Energy Associates, LLC designated as Service Agreement No. 330 under the Company's FERC Electric Tariff, Second Revised Volume No. 5 and the Service Agreement for Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Five Forks Energy Associates, LLC designated as Service Agreement No. 331 under the Company's FERC Electric Tariff, Second Revised Volume No. 5.

Dominion Virginia Power requests an effective date of July 13, 2001, the date of filing of the service agreement.

Copies of the filing were served upon Five Forks Energy Associates, LLC, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. NEU Management Committee

[Docket No. ER01–2596–000]

Take notice that on July 13, 2001, the NEU Management Committee, acting on behalf of the parties to the Agreement with Respect to Use of Quebec Interconnection, as amended, filed a Third Amended And Restated Agreement With Respect To Use Of Quebec Interconnection (Restated Use Agreement) and a related agreement entitled ''Agreement With Respect To Third Amendment And Restatement Of Agreement With Respect To Use Of Quebec Interconnection'' (Agreement) and related materials.

The NEU Management Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and all Interconnection Rights Holders (IRHs) and Indirect IRHs.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Central Hudson Gas & Electric Corporation

[Docket No. ER01–2597–000]

Take notice that Central Hudson Gas and Electric Corporation (Central Hudson) on July 16, 2001, tendered for filing revisions to its Rate Schedule FERC No. 201 which sets forth the terms and charges for transmission facilities provided by the Company to Consolidated Edison Company of New York, Inc. (Con Edison) and Niagara Mohawk Power Corporation (Niagara Mohawk) for the transmission of output from the Roseton Generating Station. Central Hudson states that a copy of its filing was served on Con Edison, Niagara Mohawk and the State of New York Public Service Commission.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 2000 as agreed to by the parties.

Comment date: August 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Puget Sound Energy, Inc.

[Docket No. ER01–2598–000]

Take notice that on July 16, 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 PG&E Energy Trading—Power, L.P. (PG&E), as Transmission Customer. A copy of the filing was served upon PG&E.

Comment date: August 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Carolina Power & Light Company and Florida Power Corporation

[Docket No. ER01–2599–000]

Take notice that Carolina Power & Light Company (CP&L) and Florida Power Corporation (FPC), on July 16, 2001, filed revisions to their Open Access Transmission Tariffs, CP&L Third Revised Volume No. 3 and FPC Second Revised Volume No. 6. the modification provides that the Tariffs' Generator Interconnection Procedures, Attachment O, apply only in the CP&L zone. The Companies state that the purpose of the filing is to correct their April 26, 2001 filing in Docket No. ER01–1807–001, which inadvertently did not limit the applicability of the Attachment.

Copies of the filing were served upon the Companies' open access transmission customers.

Comment date: August 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. West Texas Utilities Company

[Docket No. ER01–2600–000]

Take notice that on July 16, 2001, West Texas Utilities Company (WTU) tendered for filing an Interconnection Agreement, dated June 29, 2000, between WTU and The Lower Colorado River Authority (LCRA). The June 29, 2000 Interconnection Agreement supersedes all existing interconnection and interchange agreements between WTU and LCRA. WTU served copies of the filing on LCRA and the Public Utility Commission of Texas.

WTU seeks an effective date of June 29, 2000 which coincides with the date that this agreement was executed between the parties.

Comment date: August 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 this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–18482 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

July 19, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Amended application for new license.
b. *Project No.:* 1354.
c. *Date filed:* July 28, 2001.
d. *Applicant:* Pacific Gas and Electric Company.
e. *Name of Project:* Crane Valley.
f. *Location:* On Willow Creek, North Fork Willow Creek, South Fork Willow Creek, Chilkoot Creek, and Chiquito Creek within the San Joaquin River Basin. The project is in Madera and Fresno counties near the town of Oakhurst, California.

The project includes 738.11 acres of federal lands within the Sierra National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. James Holeman (415) 973–6891 or Mr. Nicholas Markevich (415) 973–5358.
i. *FERC Contact:* Jim Fargo at (202) 219–2848; e-mail *james.fargo@ferc.fed.us*
j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (http://www.ferc.gov) under the ''e-Filing'' link.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. The Crane Valley—with 26.7 megawatts (MW) of normal operating capacity—has storage, diversion, water conveyance, and power production facilities.

• The Crane Valley reservoir (Bass Lake) with a maximum storage capacity of 45,410 acre-feet (ac-ft) and Chilkoot reservoir, upstream of Crane valley, with a maximum capacity of 310 ac-ft.

• A small diversion on a tributary to the West Fork Chiquito Creek that brings water to Chilkoot reservoir

• A conveyance system—including three diversion dams, three forebays, one afterbay, and about 14 miles of canals, tunnels and flumes—linking these five powerhouses:

—Crane Valley, with 0.9 MW of normal operating capacity

—San Joaquin No. 3, with 3.4 MW of normal operating capacity

—San Joaquin No. 2, with 3.2 MW of normal operating capacity

—San Joaquin No. 1A, with 0.4 MW of normal operating capacity

—Wishon, with 18.8 MW of normal operating capacity

Historically, the project produces 123.3 gigawatthours (GWh) of electrical energy annually and has a dependable capacity of 8.4 MW.

m. All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

David P. Boergers,

Secretary.

[FR Doc. 01–18488 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Use Alternative Procedures in Preparing a License Application

July 19, 2001.

Take notice that the following request to use alternative procedures to prepare a license application has been filed with the Commission.

a. *Type of Application:* Request to use alternative procedures to prepare a new license application.
b. *Project No.:* 2101.
c. *Date filed:* July 13, 2001.
d. *Applicant:* Sacramento Municipal Water District (SMUD).
e. *Name of Project:* Upper American River Project.
f. *Location:* In the Rubicon River, Silver Creek, and South Fork American River watersheds in El Dorado and Sacramento Counties, California. The project occupies federal lands within the El Dorado National Forest.
g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).
h. *Applicant Contact:* David F. Hanson, Project Manager, Hydro Relicensing at (916) 732–6703.
i. *FERC Contact:* James Fargo at (202) 219–2848; e-mail james.fargo@ferc.fed.us.
j. *Deadline for Comments:* 30 days from the date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

k. The Upper American River Project facilities consist of several existing reservoirs, a series of powerhouses and about 180 miles of transmission line. The project has a total installed capacity of 688,000 kilowatts.

l. SMUD has met with federal and state resources agencies, non-governmental organization (NGOs), citizen's groups, Native American tribes, businesses, and others affected by the project. SMUD has also shown that a consensus exists that the use of alternative procedures is appropriate in this case. SMUD has submitted a draft communications protocol, which it plans to finalize with the help of the stakeholders.

m. The purpose of this notice is to invite any additional comments on

SMUD's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. SMUD will complete and file a preliminary Environmental Assessment, in lieu of Exhibit E of the license application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the license application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

SMUD intends to file 6-month progress reports during the alternative procedures process that leads to the filing of a license application by July 2005.

n. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 01–18489 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

July 19, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Original Minor License.

b. *Project No.:* P–11797–000.

c. *Date Filed:* July 29, 1999.

d. *Applicant:* Grande Pointe Power Corporation.

e. *Name of Project:* Three Rivers.

f. *Location:* On the St. Joseph River in the City of Three Rivers, St. Joseph County, Michigan. The project does not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Monroe E. Learn, Grande Pointe Power Corporation, 503 West Michigan Avenue, Three Rivers, MI 54601, (616) 273–8828.

i. *FERC Contact:* Mr. Charles T. Raabe, E-mail Charles.Raabe@FERC.FED.US or telephone (202) 219–2811.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The project consists of the following existing facilities: (1) a right earthen embankment 750 feet-long and a left earthen embankment 200 feet-long, separated by a 283 foot-long gated spillway section with a crest elevation of 792.4 feet NGVD; (2) a 601-acre reservoir with a normal water surface elevation of 797.0 feet NGVD; (3) a powerhouse containing 3 vertical Francis turbines each connected to a generator unit for a total installed capacity of 900 kW; and (4) appurtenant facilities. The average annual energy generation is 3,844,920 kWh. Power generated by the project is sold to the city of Sturgis.

m. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link-select ''Docket #'' and follow the instructions (call 202-208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. *Procedural schedule and final amendments:* The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of NEPA scoping
Notice that the application is ready for environmental analysis
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission within 30 days of the Notice that the application is ready for environmental analysis.

o. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

p. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' or ''COMPETING APPLICATION:'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 01–18490 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

July 19, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12059–000.

c. *Date Filed:* June 27, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Tongue River Hydroelectric Project.

f. *Location:* The proposed project would be located on an existing dam owned by the State of Montana, on the Tongue River in Big Horn County, Montana. Part of the project would be on lands administered by the State of Montana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § § 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Mr. Lynn R. Miles, Sr. (202) 219–2671.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, 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 under the ''e-Filing'' link.

Please include the Project Number (12059–000) on any comments, protest, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) the State of Montana's existing 91-foot-high and 1,824-foot-long earthfilled dam, (2) the existing Tongue Reservoir with a surface area of 3,500 acres and a storage capacity of 69,400 acre-feet at a normal elevation of 3,424 feet msl, (3) a 120-inch-diameter 300-foot-long steel penstock, (4) a powerhouse containing four 1.14 MW generating units with an installed capacity of 4.55 MW, (5) a 15 kv transmission line approximately 2 miles long, and (6) appurtenant facilities.

The project would have an annual generation of 19.65 GWh.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO

INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–18491 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

July 19, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12062–000.

c. *Date Filed:* July 2, 2001.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Sun River Diversion Hydroelectric Project.

f. *Location:* The proposed project would be located on an existing dam owned by the U.S. Bureau of Reclamation, on the Sun River in Teton County, Montana. Part of the project would be on lands administered by the U.S. Bureau of Reclamation.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–8630, (fax) (208) 745–7909, or e-mail address: npsihydro@aol.com.

i. *FERC Contact:* Mr. Lynn R. Miles, Sr. (202) 219–2671.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the Project Number (12062–000) on any comments, protest, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consists of: (1) the Bureau of Reclamation's existing 132-foot-high and 261-foot-long diversion dam, (2) the existing Diversion Lake Reservoir with a surface area of 202 acres and a storage capacity of 6,395 acre-feet at a normal elevation of 4,474 feet msl, (3) a 120-inch-diameter 500-foot-long steel penstock, (4) a powerhouse containing five 1.1 MW generating units with an installed capacity of 5.5 MW, (5) a 15 kv transmission line approximately 5 miles long, and (6) appurtenant facilities.

The project would have an annual generation of 20.8 GWh.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((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 under the ''e-Filing'' link. A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified

comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–18492 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–340–000, RP00–340–001, and RP01–7–000]

Gulf South Pipeline Company; Notice of Technical Conference

July 19, 2001.

Take notice that a technical conference to discuss the various issues raised by the filing of Gulf South Pipeline Company will be held on Thursday, August 9, 2001, at 10:00 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Parties protesting aspects of Gulf South's filing should be prepared to discuss alternatives.

All interested Parties and Staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 01–18496 Filed 7–24–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for the disbursement of $528,941, plus accrued interest, in crude oil and refined petroleum overcharges obtained by the DOE pursuant to consent orders signed by Intercoastal Oil Corporation, Case No. LEF–0057, and Gulf States Oil & Refining, Case No. LEF–0073. The OHA has tentatively determined that the funds will be distributed in accordance with the provisions of 10 CFR Part 205, Subpart V.

DATE AND ADDRESSES. Comments must be filed in duplicate within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–0107. All comments should display a reference to Case Nos. LEF–0057 or LEF–0073.

FOR FURTHER INFORMATION CONTACT: Richard A. Cronin, Jr., Assistant Director, Office of Hearings and Appeals, 1000 Independence Ave., SW., Washington, DC 20585–0107, (202) 287–1562, richard.cronin@hq.doe.gov.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants $528,941, plus accrued interest, obtained by the DOE pursuant to Consent Orders entered into with Intercoastal Oil Corporation (Intercoastal) and Gulf States Oil & Refining (Gulf States). Under the Consent Orders, Intercoastal and Gulf States resolved all allegations concerning violations of the federal petroleum price regulations involving the sale of refined petroleum products and crude oil during the relevant audit periods.

The OHA has proposed to distribute one-half of the Consent Order funds in a refund proceeding described in the Proposed Decision and Order to provide restitution for those parties injured by Intercoastal's or Gulf States' alleged violations of pricing regulations for refined petroleum products. Purchasers of refined petroleum products from Intercoastal or Gulf States will have the opportunity to submit refund applications. Refunds will be granted to applicants who satisfactorily demonstrate that they were injured by the pricing violations and who document the volume of refined petroleum products they purchased from one of the firms during the relevant consent order period.

The remaining one-half of the Consent Order funds will be distributed in the currently-existing crude oil refund proceeding described in the Proposed Decision and Order. Because the deadline for filing crude oil refund applications has passed, no new applications for refund for the alleged crude oil pricing violations of Intercoastal and Gulf States will be accepted for these funds.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to forward two copies of their submission, within 30 days of the publication of this notice in the **Federal Register**, to the address set forth at the beginning of this notice. Comments so received will be made available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal Holidays, in Room 7132 (the public reference room), 950 L'Enfant Plaza, Washington, DC.

Dated: July 16, 2001.

George B. Breznay,

Director, Office of Hearings and Appeals.

Names of Firms: Intercoastal Oil Corporation, Gulf States Oil & Refining

Dates of Filing: July 20, 1993, July 20, 1993

Case Numbers: LEF–0057, LEF–0073

The Office of General Counsel (OGC) of the Department of Energy (DOE) filed a Petition requesting that the Office of Hearings and Appeals (OHA) formulate and implement Subpart V special refund proceedings. Under the procedural regulations of the DOE, special refund proceedings may be implemented to refund monies to persons injured by violations of the DOE

petroleum price regulations, provided DOE is unable to readily identify such persons or to ascertain the amount of any refund. 10 CFR § 205.280. We have considered OGC's request to formulate refund procedures for the disbursement of monies remitted by Intercoastal Oil Corporation (Intercoastal) and Gulf States Oil & Refining (Gulf States) pursuant to Consent Orders (the Consent Orders) the firms have entered into with the DOE and have determined that such procedures are appropriate.

Under the terms of the Consent Orders, a total of $528,941 has been remitted to DOE to remedy pricing violations which occurred during the relevant audit periods.[1] These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution. This Decision sets forth OHA's proposed plan to distribute those funds. The specific application requirements we propose appear in Section III of this Decision.

I. Background

Gulf States, a firm with its home office in Houston, Texas, was a refiner during the period of price controls, August 13, 1973 through January 27, 1981. During this period, Intercoastal, a California corporation, was a reseller of crude oil and refined petroleum products. Economic Regulatory Administration audits of Intercoastal and Gulf States revealed possible violations of the Mandatory Petroleum Price Regulations (MPPR). Subsequently, each firm entered into a Consent Order to settle its disputes with the DOE concerning sales of crude oil and refined petroleum products. Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability with respect to sales to their customers during the settlement periods. The settlement period referenced in the Intercoastal Consent Order is the period October 25, 1973 through January 17, 1981.[2] For the Gulf States Consent Order the settlement period is August 19, 1973 through January 27, 1981.

[1] Pursuant to the Consent Orders, Gulf States remitted $500,000 to DOE and Intercoastal has remitted $28,941.

[2] The Intercoastal Consent Order resolves all possible violations of the petroleum price regulations for the period August 19, 1973 through January 27, 1981. However, the consent order goes on to state that Intercoastal was active as a reseller of crude oil and refined petroleum products from October 25, 1973 through January 27, 1981. See Consent Order with Intercoastal Oil Corporation, Case No. HRO–0083 (January 25, 1983) at ¶ 301.

II. Jurisdiction and Authority

The general guidelines that govern OHA's ability to formulate and implement a plan to distribute refunds are set forth at 10 CFR Part 205, Subpart V. These procedures apply in situations where the DOE cannot readily identify the persons who were injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Office of Enforcement, 9 DOE ¶ 82,508 (1981) and Office of Enforcement, 8 DOE ¶ 82,597 (1981).

III. Refund Procedures

A. Allocation of Consent Order Funds

Both firms sold crude oil and refined petroleum products. We have been unable to discover factual information concerning the actual amounts of the alleged pricing violations or the distribution of the violations between either firm's sales of crude oil and refined petroleum products. Under the circumstances, i.e., with no factual basis for a decision as to allocation of the consent order funds between crude oil and refined products, we propose that one-half of the Intercoastal and Gulf States consent order funds ($264,471 total plus accrued interest) be allocated for restitution for parties injured by Intercoastal's and Gulf States' alleged violations of the pricing regulations for crude oil. The remaining portion of each of the sums remitted by Intercoastal and Gulf States ($264,470 total plus interest) will be allocated for restitution for those parties injured by the firms' alleged violations of the pricing regulations for refined petroleum products.

B. Refined Petroleum Product Refund Procedures

1. Application Requirements

In cases where the ERA is unable to identify parties injured by the alleged overcharges or the specific amounts to which they may be entitled, we normally implement a two-stage refund procedure. In the first stage, those who bought refined petroleum products from the consenting firms may apply for refunds, which are typically calculated on a pro-rata or volumetric basis. In order to calculate the volumetric refund amount, the OHA divides the amount of money available for direct restitution by the number of gallons sold by the firm during the period covered by the consent order.

In the present case, however, we lack much of the information that we normally use to provide direct restitution to injured customers of the consenting firms. In particular, we have been unable to obtain any information on the volumes of the relevant petroleum products sold by the consenting firms during the settlement period. Nor do we have any information concerning the customers of these firms. Based on the present state of the record in these cases, it would be difficult to implement a volumetric refund process. Nevertheless, we will accept any refund claims submitted by persons who purchased refined petroleum products from Intercoastal or Gulf States during the settlement periods discussed above. We will work with those claimants to develop additional information that would enable us to determine who should receive refunds and in what amounts.[3]

To apply for a refund from the Intercoastal or Gulf States Consent Order funds, a claimant should submit an Application for Refund containing the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number, a statement indicating whether the claimant is an individual, corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for additional information, and the name and address of the person who should receive any refund check.[4]

(2) A monthly gallonage purchase schedule covering the relevant consent order period. The applicant should specify the source of this gallonage information. In calculating its purchase volumes, an applicant should use actual records from the refund period, if available. If these records are not available, the applicant may submit

[3] Applications for Refund from will be accepted only for refined product pricing violations. With regard to crude oil pricing violations the deadline for filing applications for refund has passed. See infra.

[4] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986 and the regulations codified at 10 CFR Part 205, Subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

estimates of its refined petroleum product purchases, but the estimation method must be reasonable and must be explained;

(3) A statement whether the applicant or a related firm has filed, or has authorized any individual to file on its behalf, any other application in that refund proceeding. If so, an explanation of the circumstances of the other filing or authorization must be submitted;

(4) If the applicant is or was in any way affiliated with the consenting firm, it must explain this affiliation, including the time period in which it was affiliated;[5]

(5) The statement listed below signed by the individual applicant or a responsible official of the firm filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labeled with the name and case number of the relevant firm (Intercoastal Oil Corporation, Case No. LEF–0057 or Gulf States Oil & Refining, Case No. LEF–0073). Each applicant must submit an original and one copy of the application. If the applicant believes that any of the information in its application is confidential and does not wish for that information to be publicly disclosed, it must submit an original application, clearly designated ''confidential,'' containing the confidential information, and two copies of the application with the confidential information deleted. All refund applications should be sent to the address below: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–0107.

We will adopt the standard OHA procedures relating to refund applications filed on behalf of applicants by ''representatives,'' including refund filing services, consulting firms, accountants, and attorneys. See, e.g., Starks Shell Service, 23 DOE ¶ 85,017 (1993); Texaco Inc., 20 DOE ¶ 85,147 (1990) (Texaco); Shell Oil Co., 18 DOE ¶ 85,492 (1989). We will also require strict compliance with the filing requirements as specified in 10 CFR § 205.283, particularly the requirement that applications and the accompanying certification statement be signed by the applicant. The OHA reiterates its policy to scrutinize applications filed by filing services closely. Applications submitted by a filing service should contain all of the information indicated above.

Finally, the OHA reserves the authority to require additional information from an applicant before granting any refund in these proceedings.

2. Allocation Claims

We may receive claims based upon Intercoastal's or Gulf States's failure to furnish petroleum products that they were obliged to supply under the DOE allocation regulations that became effective in January 1974. See 10 C.F.R. Part 211. Any such application will be evaluated with reference to the standards set forth in Texaco (and cases cited therein). See Texaco, 20 DOE at 88,321.

3. Impact of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA) Amendments on Intercoastal and Gulf States Refined Product Refund Claims

The Interior and Related Agencies Appropriations Act for FY 1999 amended certain provisions of the Petroleum Overcharge and Distribution and Restitution Act of 1986 (PODRA). These amendments extinguished rights that refund applicants had under PODRA to refunds for overcharges on the purchases of refined petroleum products. They also identified and appropriated a substantial portion of the funds being held by the DOE to pay refund claims (including the funds paid by Intercoastal and Gulf States). Congress specified that these funds were to be used to fund other DOE programs. As a result, the petroleum overcharge escrow accounts in the refined product area contain substantially less money than before. In fact they may not contain sufficient funds to pay in full all pending and future refund claims (including those in litigation) if they should all be found to be meritorious. See Enron Corp./Shelia S. Brown, 27 DOE ¶ 85, 036 at 88,244 (2000) (Brown). Congress directed OHA to ''assure the amount remaining in escrow to satisfy refined petroleum product claims for direct restitution is allocated equitably among all claimants.''Omnibus Consolidated and Emergency Supplemental Appropriation Act, 1999, Pub. L. 105–277 § 337, 112 Stat 2681, 2681–295 (1998) (language added to PODRA); Brown, 27 DOE at 88,244. In view of this Congressional directive and the limited amount of funds available, it may become necessary to prorate the funds available for the meritorious claimants in the Intercoastal and Gulf States refund proceedings. However, it could be several years before we know the full value of the meritorious claims and the precise total amount available for distribution. It will be some time before we are able to determine the amount that is available for distribution for each claimant.

We therefore propose the following mechanism. All successful small claimants (refunds under $10,000) will be paid in full. To require small claimants to wait several more years for their refunds would constitute an inordinate burden and would be inequitable. See Brown, 27 DOE at 88,244. For all other granted refunds, including reseller claimants who have elected to take presumption refunds, we propose to immediately pay the larger of $10,000 or 50 percent of the refund granted. Once the other pending refund claims have been resolved, the remainder of the Intercoastal and Gulf States claims will be paid to claimants to the extent that it is possible through an equitable distribution of the funds remaining in the petroleum overcharge escrow account.

C. Refund Procedures for Crude Oil Pricing Violations

With regard to the portion of the consent order funds arising from alleged pricing violations of crude oil ($264,471 plus accrued interest), we propose that the funds should be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, (MSRP), see 51 FR 27899 (August 4, 1986). Pursuant to the MSRP, OHA proposed to reserve 20 percent of those funds for direct refunds to applicants who claim that they were injured by the crude oil violations. We stated that the remaining 80 percent of the funds would be distributed to the states and federal government for indirect restitution. We propose to

[5] As in other refund proceedings involving alleged refined product violations, the DOE will presume that affiliates of a consenting firm were not injured by the firm's overcharges. See, e.g., Marathon Petroleum Co./EMRO Propane Co., 15 DOE ¶ 85,288 (1987). This is because the consenting firm presumably would not have sold petroleum products to an affiliate if such a sale would have placed the purchaser at a competitive disadvantage. See Marathon Petroleum Co./Pilot Oil Corp., 16 DOE ¶ 85,611 (1987), amended claim denied, 17 DOE ¶ 85,291 (1988), reconsideration denied, 20 DOE ¶ 85,236 (1990). Furthermore, if an affiliate of the consenting firm were granted a refund, the consenting firm would be indirectly compensated from a Consent Order fund remitted to settle its own alleged violations.

distribute the funds obtained from the two firms in accordance with the MSRP, which was issued as a result of the Settlement Agreement approved by the court in The Department of Energy Stripper Well Exemption Litigation, 653 F. Supp. 108 (D. Kan. 1986). Shortly after the issuance of the MSRP, the OHA issued an Order that announced that this policy would be applied in all Subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 Fed. Reg. 29,689 (August 20, 1986) (the August 1986 Order).

Under the MSRP, 40 percent of crude oil overcharge funds will be disbursed to the federal government, another 40 percent to the states, and up to 20 percent may initially be reserved for the payment of claims to injured parties. The MSRP also specified that any funds remaining after all valid claims by injured purchasers are paid will be disbursed to the federal government and the states in equal amounts.

In April 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 Fed. Reg. 11,737 (April 10, 1987) (April 10 Notice). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil monies under the Subpart V regulations. In general, we stated that all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations would be presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users would not need to submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. See City of Columbus Georgia, 16 DOE ¶ 85,550 (1987).

1. Individual Refund Claims

The amount of money attributed for restitution of crude oil pricing violations is $264,471 plus accrued interest. In accordance with the MSRP, we shall initially reserve 20 percent of those funds ($52,894 plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges. We shall base refunds on a volumetric amount which has been calculated in accordance with the methodology described in the April 10 Notice. That volumetric refund amount is currently $0.0016 per gallon. See 57 FR 15562 (March 24, 1995).

The filing deadline for refund applications in the crude oil refund proceeding was June 30, 1994. This was subsequently changed to June 30, 1995. See Filing Deadline Notice, 60 FR 19914 (April 20, 1995); see also DMLP PDO, 60 FR 32004, 32007 (June 19, 1995). Because the June 30, 1995, deadline for crude oil refund applications has passed, no new applications for restitution from purchasers of refined petroleum products for the alleged crude oil pricing violations of Intercoastal and Gulf States will be accepted for these funds. Instead, these funds will be added to the general crude oil overcharge pool used for direct restitution.

2. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the crude oil violation amounts subject to this Decision, or $ 211,577 plus accrued interest, should be disbursed in equal shares to the states and federal government, for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

Accordingly, we will direct the DOE's Office of the Controller to transfer one-half of that amount, or $105,788 plus interest, into an interest bearing subaccount for the states, and one-half or $105,789 plus interest, into an interest bearing subaccount for the federal government.

It is therefore ordered That:

The payments remitted to the Department of Energy by Intercoastal Oil Corporation and Gulf States Oil & Refining, pursuant to consent orders signed on January 25, 1983 and February 1, 1983 respectively, will be distributed in accordance with the forgoing Decision.

[FR Doc. 01–18538 Filed 7–24–01; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (the ''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed partial consent decree in *Sierra Club* v. *Whitman,* Civ. No. 1:00CV02206 (D.D.C.), a lawsuit filed by the Sierra Club and the Group Against Smog and Pollution (''GASP'') under section 304(a) of the Act, 42 U.S.C. 7604(a). The lawsuit concerns EPA's alleged failure to determine whether various identified areas that are designated as nonattainment for either the 1-hour ozone or PM10 NAAQS attained these NAAQS by their applicable attainment dates. An earlier proposed partial consent decree, addressing claims as to certain of these areas, was lodged with the United States District Court for the District of Columbia on January 12, 2001.

DATES: Written comments on the proposed partial consent decree must be received by August 24, 2001.

ADDRESSES: Written comments should be sent to Kendra Sagoff Air and Radiation Division (2344A), Office of General Counsel, U.S. Environmental Protection Agency, Ariel Rios Building—North, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20004. Copies of the proposed partial consent decree are available from Samantha Hooks, (202) 564–5566.

SUPPLEMENTARY INFORMATION: The Clear Air Act requires EPA to determine within six months of the applicable attainment date whether areas that are designated as nonattainment for the ozone and PM10 national ambient air quality standards (''NAAQS'') attained those standards by those dates. See sections 181(b)(2) and 188(b)(2), 42 U.S.C. 7511(b)(2) and 7513(b)(2). If EPA determines that an area failed to attain the applicable NAAQA by the applicable attainment date, the Act provides that such area shall be reclassified by operation of law to the next higher classification. This second proposed partial consent decree provides that, with respect to certain additional areas identified in the complaint, EPA shall sign a notice of final rulemaking by specified dates, determining for each identified area

either that it attained the relevant NAAQS by the applicable attainment date, or did not attain such NAAQS by such date. In the case where the determination is that the area did not timely attain the NAAQS, the proposed partial consent decree provides that EPA shall inform the public through notice in the **Federal Register,** and identify the appropriate reclassification for that area in the notice of final rulemaking.

For the period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed partial consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent decree will then be executed by the parties.

Dated: July 17, 2001.

John T. Hannon,

Associate General Counsel, Air and Radiation Law Office.

[FR Doc. 01–18532 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100174; FRL–6792–6]

Science Applications International Corporation and Indus Corporation and Premier, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to Science Applications International Corporation and its subcontractors, Indus Corporation, and Premier, Inc., in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Science Applications International Corporation and its subcontractors, Indus Corporation, and Premier, Inc., have been awarded a contract to perform work for OPP, and access to this information will enable Science Applications International Corporation and its subcontractors, Indus Corporation, and Premier Inc., to fulfill the obligations of the contract.

DATES: Science Applications International Corporation and its subcontractors, Indus Corporation, and Premier, Inc., will be given access to this information on or before July 30, 2001.

FOR FURTHER INFORMATION CONTACT: By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

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/.

II. Contractor Requirements

Under Contract No. 68-W9-9002/000, Science Applications International Corporation and its subcontractors, Indus Corporation and Premier, Inc., will perform the following based on the statement of work:

The Office of Compliance (OC), under the Office of Enforcement and Compliance Assurance (OECA), is responsible for successful implementation of OECA's compliance/enforcement policies and priorities. As such, OC publishes guidance for field inspectors (including targeting strategies), develops and conducts inspector training programs, coordinates national compliance initiatives, collects compliance-related data from the regulated community and program accomplishment data from the Headquarters, Regional and state pesticides and toxics compliance and enforcement programs. OC is responsible for a number of ADP systems that support the above activities.

Section Seven Tracking System (SSTS) serves as the repository of pesticide production and facility information which is collected under Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (92 Stat. 829). Section 7 requires that all pesticide-producing establishments be registered with and file an annual pesticide production report to the Environmental Protection Agency.

The purpose of this task order is to provide analysis, enhancement, and maintenance support, as specified through specific task order tasks, to the pesticides and toxics automated data systems for which OECA is responsible.

The scope of work to be performed under this task order includes support for the automated systems described above; support for the functional management of the information contained in these systems and the related physical records, correspondence, etc.

The OPP has determined that access by Science Applications International Corporation and its subcontractors, Indus Corporation and Premier, Inc., to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Science Applications International Corporation and its subcontractors, Indus Corporation, and Premier Inc., prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security

Manual. In addition, Science Applications International Corporation and its subcontractors, Indus Corporation, and Premier, Inc., are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Science Applications International Corporation and its subcontractors, Indus Corporation, and Premier, Inc., until the requirements in this document have been fully satisfied. Records of information provided to Science Applications International Corporation and its subcontractors, Indus Corporation and Premier, Inc., will be maintained by EPA Project Officers for this contract. All information supplied to Science Applications International Corporation and its subcontractors, Indus Corporation and Premier, Inc., by EPA for use in connection with this contract will be returned to EPA when Science Applications International Corporation and its subcontractors, Indus Corporation, and Premier, Inc., have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: July 11, 2001.

Joanne Martin,

Acting Director, Information Resources & Services Division Office of Pesticide Programs.

[FR Doc. 01–18320 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64059; FRL–6791–8]

Cancellation of Pesticides for Non-Payment of Year 2001 Registration Maintenance Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since the amendments of October 1988, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) has required payment of an annual maintenance fee to keep pesticide registrations in effect. The fee due last January 15 has gone unpaid for about 906 registrations. Section 4(i)(5)(g) of FIFRA provides that the Administrator may cancel these registrations by order and without a hearing; orders to cancel all 906 of these registrations have been issued within the past few days.

FOR FURTHER INFORMATION CONTACT: By mail: John Jamula, Office of Pesticide Programs (H7504C), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 226, Crystal Mall No. 2, 1921 Jefferson Davis Highway South, Arlington, VA 22202, (703) 305–6426; e-mail: jamula.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this notice if you are an EPA registrant with any approved product registration(s). Although this action may be of particular interest to persons who produce or use pesticides, 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 information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information or Copies of Support Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The official record for this notice, as well as the public version, has been established under docket control number OPP–64059, (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

II. Introduction

Section 4(i)(5) of FIFRA as amended in October 1988, December 1991, and again in August 1996, requires that all pesticide registrants pay an annual registration maintenance fee, due by January 15 of each year, to keep their registrations in effect. This requirement applies to all registrations granted under section 3 as well as those granted under section 24(c) to meet special local needs. Registrations for which the fee is not paid are subject to cancellation by order and without a hearing.

The 1990 Farm Bill, amended FIFRA to allow the Administrator to reduce or waive maintenance fees for minor agricultural use pesticides when she determines that the fee would be likely to cause significant impact on the availability of the pesticide for the use. The Agency has waived the fee for 117 minor agricultural use registrations at the request of the registrants.

In late November 2000, all holders of either section 3 registrations or section 24(c) registrations were sent lists of their active registrations, along with forms and instructions for responding. They were asked to identify which of their registrations they wished to maintain in effect, and to calculate and remit the appropriate maintenance fees. Most responses were received by the statutory deadline of January 15. A notice of intent to cancel was sent in mid-February to companies who did not respond and to companies who responded, but paid for less than all of their registrations.

Since mailing the notices, EPA has maintained a toll-free inquiry number through which the questions of affected registrants have been answered. Maintenance fees have been paid for about 15,803 section 3 registrations, or about 94 percent of the registrations on file in November. Fees have been paid for about 2,458 section 24(c) registrations, or about 85 percent of the total on file in November. Cancellations for non-payment of the maintenance fee affect about 575 section 3 registrations and about 331 section 24(c) registrations.

The cancellation orders generally permit registrants to continue to sell and distribute existing stocks of the canceled products until January 15, 2002, one year after the date on which the fee was due. Existing stocks already in the hands of dealers or users, however, can generally be distributed, sold or used legally until they are exhausted. Existing stocks are defined as those stocks of a registered pesticide product which are currently in the U.S. and which have been packaged, labeled and released for shipment prior to the effective date of the action.

The exceptions to these general rules are cases where more stringent restrictions on sale, distribution, or use of the products have already been imposed, through Special Reviews or

other Agency actions. These general provisions for disposition of stocks should serve in most cases to cushion the impact of these cancellations while the market adjusts.

III. Listing of Registrations Canceled for Non-Payment

Table 1 lists all of the section 24(c) registrations, and Table 2 lists all of the section 3 registrations which were canceled for non-payment of the 2000 maintenance fee. These registrations have been canceled by order and without hearing. Cancellation orders were sent to affected registrants via certified mail in the past several days. It is Agency policy to rescind cancellation of any particular registration only if the cancellation resulted from Agency error.

TABLE 1. — SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE

SLN No.	Product Name
000264 AL–90–0011	Illoxan 3EC Herbicide
010163 AL–97–0001	Imidan 70-WP Agricultural Insecticide
000707 AL–99–0007	Confirm 2F Agricultural Insecticide
000279 AR–00–0010	Command 3ME Microencapsulated Herbicide
050534 AR–90–0001	Bravo 720
000264 AR–93–0002	Illoxan Herbicide
010163 AR–96–0002	Imidan 70-WP Agricultural Insecticide
000279 AR–97–0001	Furadan 3G Insecticide - Nematicide
000707 AR–99–0010	Confirm 2F Agricultural Insecticide
010163 AZ–99–0004	Imidan 70-WSB
073344 CA–00–0002	Pro-Gibb 4% Liquid Concentrate
073317 CA–00–0005	Pro-Gibb 4% Liquid Concentrate
003125 CA–00–0008	Di - Syston 8
000100 CA–77–0039	Supracide 25WP Insecticide-Miticide
050534 CA–77–0095	Bueno-6
050534 CA–77–0096	DSMA Liquid
062719 CA–77–0532	Treflan E.C.
003125 CA–79–0139	Guthion Solupak 50% Wettable Powder Insecticide
050534 CA–79–0189	Bueno 6
003125 CA–79–0235	Sencor 4 Flowable Herbicide
050534 CA–80–0077	Ansar 529-HC Herbicide
000100 CA–81–0005	D-Z-N Diazinon 50W Insecticide
003125 CA–81–0074	Guthion 50% Wettable Powder (PVA)
000100 CA–82–0004	Supracide 25W Insecticide-Miticide
000264 CA–85–0035	Rovral Fungicide
050534 CA–85–0066	Bravo 500
011179 CA–86–0044	Dithane M-45 Agricultural Fungicide
059639 CA–87–0064	Orthene 75 S Soluble Powder
059623 CA–89–0042	Hercon Insectape Professional Strength with Propoxur
000100 CA–90–0002	Supracide 25W Insecticide-Miticide
065247 CA–90–0013	Rovral Fungicide
010182 CA–90–0025	Devrinol 50-DF
010163 CA–91–0033	Imidan 50-WP Agricultural Insecticide
010163 CA–91–0034	Imidan 50-WP Agricultural Insecticide
010182 CA–93–0018	Devrinol 50-DF Selective Herbicide
059623 CA–94–0019	M-Pede Insecticide
010163 CA–97–0001	Prefar 6-E Herbicide
039834 CA–97–0002	Veratran D
060256 CA–97–0004	Trigard Insecticide
000279 CA–97–0005	Furadan 5G Insecticide - Nematicide
000100 CA–97–0030	Supracide 25WP Insecticide-Miticide
000524 CA–98–0019	MON 65005 Herbicide
066196 CA–98–0022	Lime-Sulfur Solution

TABLE 1. — SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

SLN No.	Product Name
010182 CA–99–0016	Abound Flowable Fungicide
073380 CO–00–0005	Knack Insect Growth Regulator
050534 CO–89–0003	Dacthal W-75 Herbicide
010182 CO–97–0002	Diquat Herbicide
010182 CO–98–0001	Warrier Insecticide
000264 CO–99–0001	Balance Herbicide
000100 CO–99–0003	Maxim - MZ Potato Seed Protectant
000100 CO–99–0006	Mefenoxam EC
000400 CO–99–0008	Dimilin 2l
059639 DE–00–0001	Orthene 97 Pellets
059639 DE–91–0003	Dibrom Concentrate
000100 FL–77–0016	Geigy Diazinon AG 500
000100 FL–77–0017	D-Z-N Diazinon 50W
010182 FL–78–0021	Devrinol 50-DF
060182 FL–84–0018	Kocide 101
059639 FL–89–0006	Monitor 4 Spray
059639 FL–89–0010	Monitor 4 Spray
059639 FL–89–0011	Monitor 4 Spray
059639 FL–89–0012	Monitor 4 Spray
059639 FL–89–0013	Monitor 4 Spray
059639 FL–89–0014	Monitor 4 Spray
050534 FL–90–0006	Bravo 720
060182 FL–91–0016	Drexel Sulfur 90W
050534 FL–91–0018	Bravo 720
010182 FL–93–0004	Diquat Herbicide
010182 FL–93–0005	Diquat Herbicide
010182 FL–94–0007	Diquat Herbicide
050534 FL–95–0005	Bravo 825
059639 FL–96–0003	Monitor 4 Spray
000400 FL–96–0014	Micromite 25W
050534 FL–97–0002	Daconil 720 Flowable Fungicide
050534 FL–97–0003	Daconil SDG
010182 FL–97–0005	Reward Aquatic and Noncrop Herbicide
011220 FL–97–0007	Tri-Con 67/33
000707 FL–99–0012	Confirm 2F Agricultural Insecticide
059639 GA–77–0011	Dibrom Concentrate
003125 GA–84–0006	Sencor DF 75% Dry Flowable Herbicide
000707 GA–89–0006	Goal 1.6E Herbicide
010182 GA–93–0005	Diquat Herbicide
010163 GA–95–0002	Imidan 70-WSB
010163 GA–96–0003	Imidan 70-WSB
010163 GA–96–0004	Imidan 70-WP Agricultural Insecticide
010182 HI–92–0007	Devrinol 50-DF Selective Herbicide
000524 HI–95–0003	Roundup Herbicide
000524 HI–96–0005	MON-65005 Herbicide
000352 IA–95–0002	Dupont Glean Herbicide
050534 ID–77–0019	Bueno-6
010182 ID–78–0026	Ro-Neet 6E A Selective Herbicide Emulsifiable Liquid
059639 ID–90–0016	Dibrom 8 Emulsive
010182 ID–94–0002	Ro-Neet 6-E

TABLE 1. — SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

SLN No.	Product Name
010182 ID–95–0003	Premiere Plus Flowable Seed Treatment
010182 ID–95–0007	Warrior Insecticide
010182 ID–95–0008	Gramoxone Extra Herbicide
005481 ID–95–0016	Dibrom 8 Emulsive
010182 ID–95–0017	Ro-Neet 6-E
000707 ID–96–0001	Fore Flowable Turf and Ornamental Fungicide
000707 ID–96–0004	Dimension Turf Herbicide
005481 ID–97–0003	Vapam Soil Fumigant Solution for All Crops
000100 ID–99–0004	Maxim - MZ Potato Seed Protectant
000100 ID–99–0009	Mefenoxam EC
010163 ID–99–0010	Gowan Dimethoate 4
055146 ID–99–0012	Ultra Flourish Fungicide
000400 ID–99–0013	Dimilin 2L
000100 IL–95–0001	Tilt Fungicide
010163 IL–99–0004	Imidan 70-WSB
000100 IL–99–0006	Tilt Fungicide
000100 IL–99–0008	Tilt Fungicide
000707 IN–84–0003	Goal 1.6E Herbicide
010163 IN–97–0002	Imidan 70-WSB
000400 KS–00–0002	Dimilin 2L
000100 KY–98–0002	Tilt Fungicide
001800 LA–00–0005	Command Xtra Herbicide
003510 LA–00–0007	Pounce 3.2 EC Insecticide
000264 LA–81–0016	Temik 15 G Aldicarb Pesticide
000264 LA–82–0010	Temik 15 G Aldicarb Pesticide
059639 LA–83–0018	Monitor 4 Spray
060282 LA–85–0008	Cythion Insecticide the Premium Grade Malathion
010182 LA–87–0002	Ambush Insecticide
050534 LA–88–0008	Diamond Bueno-6
050534 LA–88–0009	Arsonate Liquid
059639 LA–91–0010	Monitor 4 Spray
059639 LA–91–0011	Monitor 4 Spray
059639 LA–91–0012	Monitor 4 Spray
059639 LA–91–0016	Monitor 4 Spray
000707 LA–93–0011	Goal 1.6E Herbicide
000524 LA–93–0016	Roundup Herbicide
002217 LA–93–0022	Acme HI-DEP Herbicide
000524 LA–93–0026	Roundup D-PAK Herbicide
010182 LA–94–0007	Gramoxone Extra Herbicide
010163 LA–95–0009	Imidan 70-WP Agricultural Insecticide
000279 LA–96–0014	Furadan 3G Insecticide - Nematicide
010182 LA–99–0006	Reward Landscape and Aquatic Herbicide
044719 MD–00–0001	Tolcide PS200
000100 ME–99–0001	Maxim - MZ Potato Seed Protectant
000100 ME–99–0003	Mefenoxam EC
000201 MI–79–0012	Pratt Vapona Vaporizer Concentrate
010182 MI–79–0014	Dyfonate 4E Emulsifiable Liquid
000707 MI–94–0003	Kerb 50W Herbicide (in WSP)
010163 MI–95–0002	Imidan 70-WSB
010182 MN–93–0005	Diquat Herbicide

TABLE 1. — SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

SLN No.	Product Name
000707 MN–94–0001	Goal 1.6E Herbicide
000707 MN–96–0005	Dithane F-45 Flowable Agricultural Fungicide
000100 MN–99–0003	Maxim-MZ Potato Seed Protectant
000100 MN–99–0005	Mefenoxam EC
055146 MN–99–0011	Ultra Flourish Fungicide
003125 MO–79–0012	Sencor 4 Flowable Herbicide
000279 MO–97–0001	Furadan 3G Insecticide - Nematicide
056485 MS–00–0005	Sanitizer 3134
007182 MS–79–0023	Destun 4-S Cotton Herbicide
000264 MS–90–0018	Formula 40 Herbicide
050534 MS–90–0025	Bueno-6
050534 MS–90–0032	Arsonate Liquid
000264 MS–91–0019	Illoxan Herbicide
010163 MS–95–0010	Imidan 70-WP Agricultural Insecticide
010163 MS–95–0011	Imidan 70-WSB
010163 MS–96–0004	Imidan 70-WSB
068119 MS–96–0005	Wilfarm 2,4-D Amine 4
000279 MS–97–0003	Furadan 3G Insecticide - Nematicide
042750 MS–98–0003	2,4-D Amine 4
070907 MS–98–0007	Gharda Chlorpyrifos 4e
073235 MT–00–0003	Temik Brand 15g Aldicarb Pesticide
010182 MT–93–0005	Diquat Herbicide
000707 MT–97–0002	Dithane F-45 Flowable Agricultural Fungicide
059639 MT–98–0002	Dibrom 8 Emulsive
000100 MT–98–0007	Maxim - MZ Potato Seed Protectant
000400 MT–99–0007	Dimilin 2L
050534 NC–81–0030	Dacthal W-75 Herbicide
003125 NC–86–0006	Sencor DF 75% Dry Flowable Herbicide
010182 NC–89–0003	Devrinol 50-WP
010182 NC–89–0004	Devrinol 50-WP
010182 NC–89–0005	Fusilade 2000 Herbicide
010182 NC–89–0008	Karate Insecticide
010163 NC–90–0001	Imidan 50-WP Agricultural Insecticide
000264 NC–91–0001	Illoxan 3EC Herbicide
010182 NC–95–0006	Gramoxone Extra Herbicide
010163 NC–98–0004	Imidan 70-WSB
010163 NC–99–0001	Imidan 70-WSB
010163 NC–99–0002	Imidan 70-WSB
000400 ND–00–0006	Dimilin 2L
010182 ND–81–0008	Ambush Insecticide
000707 ND–93–0002	Goal 1.6E Herbicide
010182 ND–95–0007	Diquat Herbicide
000707 ND–95–0008	Fore Flowable Turf and Ornamental Fungicide
000100 ND–99–0001	Maxim - MZ Potato Seed Protectant
000100 ND–99–0004	Mefenoxam EC
055146 ND–99–0007	Ultra Flourish Fungicide
000707 NE–96–0001	Dithane F-45 Flowable Agricultural Fungicide
000400 NE–99–0005	Dimilin 2L
000352 NJ–94–0009	Dupont Lannate Insecticide
050534 NM–78–0004	Bueno-6

TABLE 1. — SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

SLN No.	Product Name
050534 NM–78–0005	DSMA Liquid
000352 NM–82–0023	Dupont Velpar L Weed Killer
000400 NM–99–0003	Dimilin 2L
000707 NV–93–0002	Goal 1.6E Herbicide
010182 NV–95–0003	Warrior Insecticide
000100 NV–99–0001	Supracide 25WP Insecticide-Miticide
000400 NV–99–0005	Dimilin 2L
000352 NY–94–0001	Dupont Accent SP Herbicide.
000707 NY–95–0001	Dimension Turf Herbicide
004581 NY–97–0004	Ziram 76DF Fungicide
050584 NY–99–0005	Bravo 720
000100 OH–78–0002	Geigy Diazinon AG 500
000707 OH–88–0001	Kerb 50-W Herbicide (in Water Soluble Pouches)
000279 OH–96–0005	Command 4EC Herbicide
000279 OH–96–0006	Command 4EC Herbicide
050534 OK–78–0002	DSMA Liquid
000100 OK–79–0010	Geigy Diazinon AG 500
003125 OK–88–0002	Di - Syston 8
000264 OK–93–0003	Illoxan Herbicide
007969 OK–96–0001	Weedmaster Herbicide
000524 OK–96–0002	MON-65005 Herbicide
005481 OR–00–0025	K-Salt Fruit Fix 200
005481 OR–00–0026	K-Salt Fruit Fix 800
000279 OR–78–0020	Thiodan 50WP Insecticide
010182 OR–78–0054	Ro-Neet 6E A Selective Herbicide Emulsifiable Liquid
002935 OR–80–0089	Red-Top Diazinon 4 Spray
002935 OR–80–0095	Red Top Superior Spray Oil N.W.
010182 OR–81–0102	Devrinol 50-DF
005481 OR–83–0012	Vapam Soil Fumigant Solution
003125 OR–87–0002	Sencor DF 75% Dry Flowable Herbicide
000707 OR–90–0016	Goal 1.6E Herbicide
000707 OR–91–0026	Goal 1.6E Herbicide
002935 OR–92–0022	IDA, Inc. Diuron 80w
010182 OR–94–0011	Ro-Neet 6-E
010182 OR–94–0026	Ro-Neet 6-E
010163 OR–94–0044	Imidan 70-WSB
010163 OR–94–0046	Imidan 70-WSB
010163 OR–94–0048	Imidan 70-WSB
010163 OR–94–0050	Imidan 70-WSB
005481 OR–95–0015	Dibrom 8 Emulsive
000707 OR–96–0005	Goal 1.6E Herbicide
000707 OR–96–0006	Goal 1.6E Herbicide
000264 OR–96–0017	Mocap 10% Granular Nematicide Insecticide
000264 OR–96–0018	Mocap EC Nematicide - Insecticide
000100 OR–96–0030	Supracide 25WP Insecticide - Miticide
000707 OR–97–0023	Dithane F-45 Flowable Agricultural Fungicide
071795 OR–98–0014	Clorox
060063 OR–98–0022	Echo 720 Agricultural Fungicide
000400 OR–99–0033	Dimilin 2L
000100 OR–99–0041	Mefenoxam EC

TABLE 1. — SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

SLN No.	Product Name
068030 PR–94–0001	BVA Spray 15
050534 PR–98–0001	Bravo 500
000707 RI–97–0001	Dimension Turf Herbicide
050534 SC–77–0014	DSMA Liquid
050534 SC–77–0015	Bueno-6
000264 SC–90–0003	Illoxan 3EC Herbicide
007969 SC–90–0006	Ronilan FL
010182 SC–92–0007	Ro-Neet 6-E
010182 SC–94–0003	Diquat Herbicide
010163 SC–95–0003	Imidan 70-WSB
010163 SC–95–0005	Imidan 70-WSB
010182 SC–97–0008	Reward Aquatic and Noncrop Herbicide
010163 SC–99–0006	Imidan 70-WSB
000707 SD–94–0001	Goal 1.6E Herbicide
000707 SD–94–0003	Goal 1.6E Herbicide
010182 SD–95–0005	Diquat Herbicide
050534 SD–96–0004	Bravo 720
050534 SD–96–0005	Bravo ZN
000707 SD–98–0001	Dithane F-45 Flowable Agricultural Fungicide
000400 SD–99–0004	Dimilin 2L
010182 TN–93–0006	Arrosolo 3-3E
000264 TN–93–0008	Illoxan Herbicide
001386 TN–95–0001	Dursban 4E
010163 TN–95–0005	Imidan 70-WSB & 70-WP
000707 TN–99–0006	Confirm 2F Agricultural Insecticide
054444 TX–00–0001	Dormex
000100 TX–00–0004	Tilt Gel Fungicide
000352 TX–83–0002	Dupont Velpar L Weed Killer
059639 TX–89–0007	Monitor 4 Spray
059639 TX–89–0008	Monitor 4 Spray
010182 TX–93–0014	Cyclone Herbicide
000524 TX–94–0003	Roundup Herbicide
010182 TX–94–0011	Cyclone Herbicide
010182 TX–95–0010	Cyclone Concentrate Herbicide
000707 TX–96–0004	Goal 1.6E Herbicide
000524 TX–96–0014	MON-65005 Herbicide
000279 TX–97–0003	Furadan 3G Insecticide - Nematicide
000352 TX–97–0004	Dupont Staple Herbicide
000279 TX–98–0009	Firstline GT Plus Termite Bait Station
000707 TX–99–0013	Confirm 2F Agricultural Insecticide
010163 TX–99–0014	Imidan 70-WSB
010163 TX–99–0015	Imidan 70-WP Agricultural Insecticide
050534 UT–88–0004	Dacthal W-75 Herbicide
010182 UT–97–0002	Diquat Herbicide
000400 UT–99–0002	Dimilin 2L
059639 VA–00–0003	Orthene 97 Pellets
000707 VA–93–0010	Goal 1.6E Herbicide
050534 VA–94–0002	Bueno-6
067751 VA–98–0002	Select 2ec Herbicide
050534 WA–77–0025	Bueno-6

TABLE 1. — SECTION 24(C) REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

SLN No.	Product Name
059639 WA–80–0074	Volck Supreme Spray
050534 WA–82–0004	Dacthal W-75 Herbicide
073049 WA–86–0019	Promalin Plant Growth Regulator
000352 WA–87–0003	DuPont Telar Herbicide
050534 WA–89–0003	Dacthal W-75 Herbicide
065230 WA–90–0025	Vinco Formaldehyde Solution
005481 WA–91–0038	K-Salt Fruit Fix 800
005481 WA–91–0039	K-Salt Fruit Fix 200
010182 WA–92–0007	Devrinol 50-DF Selective Herbicide
010182 WA–92–0035	Devrinol 50-DF Selective Herbicide
000352 WA–93–0006	Dupont Escort Herbicide
010182 WA–93–0013	Diquat Herbicide
010182 WA–93–0019	Ro-Neet 6-E
007001 WA–94–0022	Sim-Tec 0.50
010182 WA–94–0030	Ro-Neet 6-E
010182 WA–94–0037	Gramoxone Extra Herbicide
010163 WA–95–0015	Imidan 70-WP Agricultural Insecticide
005481 WA–95–0030	Dibrom 8 Emulsive
010182 WA–95–0040	Ro-Neet 6-E
010182 WA–96–0028	Diquat Herbicide
005481 WA–97–0016	Vapam Soil Fumigant Solution for All Crops
005481 WA–97–0017	Vapam Soil Fumigant Solution for All Crops
000524 WA–98–0010	Rodeo Aquatic Herbicide
000100 WA–99–0009	Maxim - MZ Potato Seed Protectant
000100 WA–99–0019	Mefenoxam EC
010163 WA–99–0022	Gowan Dimethoate 4
000400 WA–99–0026	Dimilin 2L
050534 WI–94–0002	Bravo 720
010182 WI–94–0007	Diquat Herbicide
000707 WI–95–0001	Goal 1.6E Herbicide
000100 WI–99–0004	Maxim - MZ Potato Seed Protectant
055146 WI–99–0012	Ultra Flourish Fungicide
000100 WI–99–0013	Mefenoxam EC
000100 WV–78–0010	Geigy Diazinon AG 500
000100 WV–78–0012	D-Z-N Diazinon 50W
010182 WY–95–0002	Gramoxone Extra Herbicide
010182 WY–97–0003	Warrior Insecticide
000400 WY–99–0003	Dimilin 2L

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE

Registration No.	Product Name
000003–00005	Formula BF-101 (Roach and Ant Killer)
000016–00042	Dragon Miracle Weed Preventer
000016–00112	Dragon Brand Dipel Wettable Biological Insecticide

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
000016–00165	Dragon General Purpose Insect Spray
000052–00111	Tamed Iodine Wescodyne G
000052–00150	Tamed Iodine Wescodyne

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
000100–00597	Dual 8E Herbicide
000100–00673	Dual Herbicide
000100–00691	Pennant Liquid Herbicide
000100–00710	Bicep II Herbicide
000100–00711	Dual II Herbicide

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
000100–00712	Dual IIG Granular Herbicide
000100–00766	Bicep Lite II Herbicide
000100–00875	Tough 3.75 EC
000100–00876	Tough 45 WP
000100–00887	Mertect 40 Water Dispersible Anti-Mycotic
000100–00917	Mertect Fungicide
000100–00947	Broadstrike Dual Magnum Herbicide
000151–00015	Poineer Super 60 Sanitizer
000192–00148	Dexol Dexa-Klor Dust
000192–00179	Dexol Ant, Roach & Spider Control
000192–00207	Dexol Pest Free Insect Killer
000264–00669	Starlink Corn
000270–00289	Security Brand Captan Garden Spray
000279–02791	Furadan 2 Granules Insecticide - Nematicide
000279–02792	Furadan 3G Insecticide - Nematicide
000334–00214	Concept Hospital Disinfectant Deodorant
000334–00241	Bafix Germicidal Spray & Wipe Cleaner and Surface Deodorant
000334–00292	Wint Mint Disinfectant
000334–00372	A-Plus Germicidal Spray & Wipe Cleaner
000334–00385	MIS-TERY Household Disinfectant and Deodorizer Spray
000334–00417	C-SPRA Disinfectant Deodorant
000334–00560	NEU - Quat 64.
000334–00566	Hytime Metered Aerosol Insecticide
000334–00567	HBII Wasp & Hornet Killer
000400–00468	Dimilin W-25 for Soybean
000402–00130	Hill #2912 Torpedo
000498–00127	Ant & Roach Spray Formula 2
000498–00133	Ant & Roach Spray, Formula 3
000498–00155	Spraypak Wasp Jet Spray
000498–00164	Spraypak Roach & Bug Killer Insecticide Formula 2
000498–00165	Spraypak Wasp Spray

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
000498–00168	Spraypak Wasp Long Range Jet Spray, Formula 2
000498–00184	Champion Sprayon Roach, Bug & Ant Killer
000499–00074	PT 500 Activated Pyrethrum Insect Fogger
000499–00079	Whitmire Industrial Aerosol Insecticide
000499–00126	Whitmire's Flys-Off Settling Mist Insecticide
000499–00128	Whitmire Barn Fogger
000499–00145	M B Insect Fogger
000499–00150	Whitmire Patio Fogger
000499–00160	Whitmire Prescription Treatment No. 110 Aerosol Generator
000499–00166	Whitmire PT 140 Resmethrin
000499–00168	Whitmire Institutional Aerosol Insecticide
000499–00170	Whitmire Industrial Aerosol Insecticide
000499–00180	Whitmire PT 1200 Resmethrin
000499–00182	Whitmire PT 565
000499–00184	Insecticide Pyrethrum Spray No. 580
000499–00185	Whitmire PT 581 Pyrethrum Spray
000499–00186	Whitmire Prescription Treatment No. 583
000499–00200	Whitmire PT 565F Pyrethrum
000499–00202	Whitmire PT 550F Resmethrin
000499–00208	Whitmire PT 10 Dairy and Farm Insect Fogger
000499–00209	Whitmire PT 1400 Sumithrin
000499–00212	Whitmire PT 527 with Allethrin
000499–00214	PT 529 with Pyrethrum
000499–00219	Flys-Away Electronic Insect Killer
000499–00221	Whitmire PT 3–6–10 Aero-Cide
000499–00230	Whitmire PT 280
000499–00234	Whitmire Knox Out MCAP Diazinon Timed Release Insect PT 1500a

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
000499–00243	Whitmire Pyreth-In PT 1100 Total Release Insecticide
000499–00245	Whitmire PT 14 Insect Fogger
000499–00248	Whitmire Knox-Out Microencapsulated Diazinon PT 1500R
000499–00250	Whitmire PT 1300 Total Release Insecticide
000499–00261	Whitmire General Purpose Flea Killer
000499–00277	Whitmire House and Garden Insect Killer.
000499–00285	PT 565 Plus Pyrethrum
000499–00306	Whitmire Talstar PT 1800 Total Release Insecticide
000499–00307	Whitmire Talstar PT 1800 Directed Spray Insecticide
000499–00333	P/P Insecticide No. 2
000499–00334	P/P Insecticide No. 4
000499–00341	P/P Residual House & Garden Insecticide
000499–00343	P/P Insecticide No. 32
000499–00344	P/P Insecticide No. 33
000499–00345	P/P Insecticide No. 34
000499–00346	P/P Insecticide No. 35
000499–00347	P/P Insecticide No. 36
000499–00348	P/P Flying Insect Killer No. 37
000499–00349	P/P Household Insect Killer No. 38
000499–00350	P/P Total Release Indoor Fogger
000499–00351	P/P Total Release Indoor Fogger No. 4
000499–00380	Whitmire PT 1300 Orthene Directed Spray Insecticide
000499–00387	Whitmire PT 1200 Resmethrin Total Release Insecticide
000499–00391	Whitmire PT 1200 Resmethrin
000499–00392	Whitmire PT 610M Microencapsulated Insecticide
000506–00159	Tat Area Fogger II
000506–00178	TAT Wasp and Hornet Killer TE
000567–00008	Asarco Sulfuric Acid Desiccant

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
000572–00056	Rockland Methoxychlor 2-E
000572–00062	Rockland Fruit Tree Spray
000572–00165	Rockland Ferbam Fungicide
000572–00328	Rockland Home Insect Spray
000572–00330	Rockland Shade Tree Insect Spray
000572–00341	Rockland Methoxychlor 25
000572–00346	Rockland Systemic Rose and Birch Tree Care 8–12–4
000572–00352	Rockland Diazinon WB Insect Spray
000572–00355	Rockland Diazinon 2% Garden Dust
000577–00538	Clearwood Finish with Preservative A 17C2
000577–00542	Cuprinol Stain & Wood Preservative
000655–00401	Prentox Intermediate DPB 1000
000655–00405	Prentox Residual Spray 0.5% Diazinon
000655–00463	Prentox Diazinon 50% Dust
000655–00473	Prentox Diazinon 80% Oil Concentrated
000655–00475	Prentox Diazinon 25% Emulsifiable Concentrate
000655–00500	Prentox Diazinon 4 lb. Oil Concentrate
000655–00536	Prentox D.D.V.P. Five
000655–00583	Prentox Pyronyl-Diazinon Emulsifiable Concentrate
000655–00584	Prentox Diazinon 1E Insecticide
000655–00595	Prentox Intermediate DPB-5000
000655–00696	Prentox Pyrifos 0.50 RTU
000655–00792	Prentox D+2 Insecticide
000655–00793	Super Brand D+2 Insecticide
000662–00072	GDA 25
000748–00289	CAL-Hypo T50 Calcium Hypochlorite Tablets
000748–00298	Repak 75 Granules
000748–00299	Zappit 75
000769–00478	Dusting Sulphur
000769–00631	B & G Diazinon 5G

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
000769–00641	Dursban 2E Insecticide
000769–00651	SMCP Methoxychlor 2E Emulsifiable Concentrate
000769–00662	SMCP Dursban .5% Granular Insecticide
000769–00680	Dursban Mole Cricket Bait
000769–00687	SMCP Diazinon 4E Insecticide
000769–00692	SMCP Diazinon 2D Insecticide Dust
000769–00699	Dursban 4E Insecticide
000769–00718	SMCP Diazinon 25 E Lawn and Garden Insect Control
000769–00782	Omnicide
000769–00808	Banzol
000769–00871	Pratt 50W Methoxychlor for Forest & Shade Trees/mosq. Contr.
000769–00914	Science 50% Methoxychlor Wettable Powder
000769–00940	Dursban Plus Insecticide
000769–00947	Pratt EC 2 Methoxychlor Insect Spray
000769–00955	Pratt Methoxy-Diazinon 20–10 E.C.
000773–00089	Safecide Brand Bait
000829–00178	SA-50 Brand Tupersan Crabgrass Killer Granules
000833–00058	AFCO Tops A Liquid Acid Sanitizer Concentrate
000833–00070	Tetra San II
000875–00096	Low Foaming Iodine Sanitizer
000875–00186	FSD-4 Quaternary Germicidal Cleaner
001001–00071	3336 RG
001100–00083	Fungitrol 234 Fungicide
001159–00186	Twin Light Chloroneb Turf Fungicide
001190–00051	Hospi-TOL 256
001203–00007	Foremost 4510 Minteffect Germicide
001258–01172	HTH Extra Strength Duration Tablets
001258–01226	Omacide B 100 Industrial Fungicide
001258–01227	Omacide B 40 Industrial Fungicide

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
001258–01228	Omacide(r) B 30 Industrial Fungicide
001258–01229	Omacide B 20 Industrial Fungicide
001270–00214	ZEP Hit Man Spray Insecticide
001270–00217	ZEP Flush N'kill
001381–00152	Imperial Ready To Use 1% Vapona
001381–00160	Agrosol
001381–00161	Agrosol Flowable Systemic Commercial Seed Treatment Fungicide
001381–00167	Gammasan Insecticide - Fungicide Hopper Box Seed Treatment
001381–00172	Granox P-F-M
001381–00173	Granox CHM Soybean Seed Treatment Fungicide
001386–00646	Red Panther Parathion 8
001440–00008	Tomic DU-PY Residual Roach Spray
001452–00003	Hilo Dip
001459–00070	Water Base Residual Insect Spray II contains Pyrenone and Diazinon
001475–00150	Click Para Crystals
001475–00151	Click Moth Flakes
001475–00156	Click Moth Balls Paradichlorobenzene 100%
001706–00187	H-430 Microbiocide
001706–00194	Metasol D3T-H
001706–00197	Biochek 60
001706–00199	H-450 Microbiocide
001706–00202	Tektamer 38 O.A.
001706–00205	Tektamer 38 O.L.
001706–00206	Calgon PB-313l
001706–00214	Metasol TBT-102
001706–00218	Ty-Ion A-30
001706–00219	Ty-Ion A-32
001706–00220	CC-330 Algaecide
001719–00002	Cop-R-Tox
001719–00007	Zin-Tox Clear Wood Preserver 74-2
001812–00434	Glyphosate Original Herbicide
001965–00087	Vancide MZ-96 Dispersion

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
001990–00518	Farmland Sulfuric Acid Desiccant for Potato Vines
002382–00091	Fly Repellent Gel
002382–00111	Aqua-Pel Fly Repellent Spray
002382–00133	Preventic L.A. WB IGR Water-Based Long Act. Flea & Tick Spray for Dogs
002382–00137	Flea Ovisterilant Collar for Cats #2
002382–00138	Flea Ovisterilant Collar for Cats #3
002382–00141	Permethrin-IGR #3 Flea and Tick Spray for Dogs
002382–00142	Permethrin-IGR #5 Flea and Tick Spray for Dogs
002382–00147	Flea Ovisterilant Collar for Dogs #2
002382–00148	Flea Ovisterilant Collar for Dogs #3
002382–00157	Permethrin-Pyriproxyfen Residual Shampoo for Dogs #3
002630–00014	Ocean Spray Insecticide
002724–00282	Sandoz Dursban Collar for Dogs (RF-9411)
002724–00455	Zoecon 9202 Aerosol
002724–00480	Fluvalinate 80% Concentrate
002829–00072	Industrial Cunilate Wood Seal
002829–00129	Vinyzene RP 1000
002829–00130	Cunilate 2002
002829–00134	Formula 645 Penetrant Sealer
002829–00138	Nytek 250 WP
002935–00481	Parathion 4 Spray
002935–00483	Parathion 8 Aqua
002935–00499	Solve LV Ester 6
003008–00067	Woodfume Plus
003095–00054	PIC Pest Control
003095–00064	PIC Roach Control III
003125–00083	Di-Syston 2%
003125–00116	Di-Syston Systemic Insecticide Granules
003125–00326	Amaze Technical
003125–00342	Oftanol 2 Insecticide
003125–00352	Tempo 2 Lawn and Ornamental Insecticide

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
003125–00395	Tempo 20 WP Lawn and Ornamental Insecticide In Water Soluble Packets
003125–00403	Tempo 20 WP Lawn and Ornamental Insecticide
003234–00028	Pax Crabgrass and Spurge Preventer Plus Fertilizer
003234–00043	Ag West Weed and Feed
003276–00025	Al-Clor 6.6 Sanitizer
003342–00092	Tiger Livestock Dust
003573–00055	Tide with Bleach
003573–00057	Gain with Bleach I
003573–00060	Cleaning Care II
003573–00061	Cleaning Care II
003635–00258	Super-Klor
004000–00070	Cherry Disinfectant Bowl Cleaner
004091–00006	Klean-Strip Coppo Extra
004313–00053	Combo Cleaner-Disinfectant
004313–00054	Multi-Q Sanitizer
004313–00089	Residual Roach and Ant Killer
004704–00041	Roach and Ant Killer #2
004972–00010	Screen Pruf Aerosol
004972–00017	Don's DK Concentrate Formula Two
005383–00073	Troysan Polyphase P-15H
005383–00078	Woodsman Solid Color Oil Stain
005383–00083	Troysan Polyphase GWP-1 Wood Preservative Clear
005383–00087	Real-Wood Wood Preservative
005617–00005	I Bomb Insecticide
005887–00174	Cutworm and Lawn Insect Spray
005887–00175	Ant and Crawling Insect Control
005905–00513	Parathion 4e Emulsifiable Insecticide Concentrate
005905–00514	Parathion 8E Emulsifiable Insecticide Concentrate
005905–00515	Parathion-Methyl Parathion 6–3 Insecticide
005905–00516	Helena Parathion 8 Flowable Insecticide Concentrate
006218–00029	Summit Insect Killer

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
006218–00038	Summit Super Permacide
006218–00053	Summit Permacide W Insecticide
006704–00090	Bayluscide 5% Granular Molluscicide
006921–00002	Speedee SAN
006959–00067	Cessco Accudose Aerosol for Fire Ant Control
007122–00066	Rodere Paraffinized Rat Bait
007122–00069	Finis (the End) Rat & Mouse Killer
007122–00124	Roban II AG
007124–00025	Nu-Clo More Chlor 65
007173–00185	Rozol Laq-Berry Rat and Mouse Bait
007467–00051	Climax -3
007501–00015	Gustafson Methoxychlor 300
007537–00002	Hobby's Ready To Use Rat and Mouse Bait
007616–00039	Kem Tek 1-Inch Chlorinating Tablets
007616–00060	KEM TEK Chlori-Buoy
007616–00072	KEM TEK Professional Chlorinating Liquid
007616–20007	KTSH
007701–00053	Synco Spray Insecticide
007969–00062	Ronilan FL Fungicide
008329–00001	25% Methoxychlor Spray
008370–00004	FOS-4 Bowl Cleaner
008576–20002	Sodium Hypochlorite - 10%
008730–00060	Disrupt CM
008740–20004	Blue Ribbon Bleach
008780–00040	Turf Line Weed Killer Plus Turf Fertilizer
008821–20004	Novel Wash Bleach
008848–00014	Safeguard Household Roach & Insect Killer
009067–20005	Aqua Fit
009086–00010	Revenge Boric Acid Roach Powder
009152–00017	Bio-Quat
009152–00021	Tri-Chlor
009167–00009	Dynasept
009172–00007	Mr. Scott's Do It Yourself Pest Control
009201–00001	Floral Bouquet Citronella Candle
009201–00003	Citronella Oil (technical)

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
009404–00052	Sunniland Household Roach and Ant Spray
009404–00053	Sunniland Dursban ''5000'' Insect Control Granules
009404–00059	Turf Power Lawn Food Plus Dursban Insecticide
009404–00066	Dursban 2-E Insecticide
009404–00067	Dursban Lawn & Ornamental Spray Concentrate
009404–00071	Sunniland Mole Cricket Bait
009404–00073	Lawn Spray
009404–00083	Dursban 1-E Area
009409–00012	Pro-Chlor 10.5
009591–00057	Pro Kill Roach and Ant Spray
009779–00322	Parathion 8
009779–00351	Iprodione 4F
009852–00014	R/o Formula 859-2 Diazinon (with Synergized Pyrethrins)
009852–00071	R/o Formula 937 Power Fog Insect Fogger
009852–00079	R/o Formula 913 Institutional Airborne Pest Control
009993–00002	Foam-Coat Vaporooter
010031–00005	Petersens Ground Squirrel Killer V for G. Squirrel Control Only
010031–00007	Sebesta's Pocket Gopher Bait with Barley
010107–00043	Sevin 5% Dust
010107–00121	Seed Shield Lindane 25 Planter Box Seed Treater
010163–00194	Botec Peanut Seed Protectant
010182–00226	Eptam 87.8% Manufacturing Concentrate
010250–00040	Hempel's Antifouling Combic 7699-5111 Red
010250–00042	Hempel's Antifouling 7660-5111 Red
010292–00017	Liquid Residual Spray Insecticide
010350–00034	MEC Tomato Pinworm Pheromone Concentrate
010404–00028	Lesco 39-0-0 Fertilizer with Dursban

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
010464–00004	Sodium Hypochlorite-Industrial Grade
010465–00035	Cunap Wrap
010466–00015	Ultra Fresh U Nonionic Germistat
010466–00021	Ultrafresh U Dd Nonionic
010583–00016	Control Bermudagrass Root Killer
010663–00032	Devastate
010710–00003	Trophy No-Bac
010801–00001	Red Cross Nurse Hospital Disinfectant & Air Deodorizer
010806–00060	Contact Indoor Fogger IV
010807–00129	Misty Crack & Crevice Residual Spray W/ diazinon & Pyrethrins
011292–00001	Spearmint Deodorant Disinfectant All Purpose Cleaner
011292–00006	Aid
011474–00091	Genie Fogge X Insect Killer
011541–00015	Sludgetrol A101
011558–00015	Propionic Acid
011623–00037	Duricide Pyrenone Dursban Water Based Residual Spray
011623–00040	Regulator
011682–00034	Sim-Tec 0.50
011694–00029	D.C. – 300
011694–00086	10 and 1 Vegetation Killer
011694–00101	AR–101 Ant amp; Roach Spray
011694–00108	The End. Rally! Total Release Fogger with Insect Growyh Regulator
015341–00002	Creal-O Insect Spray
019713–00027	Drexel Methoxychlor Technical
019713–00032	Methoxychlor 50 W.P.
019713–00034	Methoxychlor 2 E.C. Emulsifiable Insecticide
020552–00002	Evergreen Fly Block (with Rabon Oral Larvicide
021164–00018	Medi-Chlor
021164–00024	Encore 2100
028293–00153	Unicorn Rotenone Dip
029909–00030	Cardinal Concentrated Dip for Dogs and Cats
030574–00001	L-Fume Pellets
030574–00004	L-Fume Tablets

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
030574–00005	Tri-Tox 57% Pellets
030574–00006	Tri-Tox 57% Tablets
032273–00009	Dock & Fence Post Preservative
032802–00036	Pcnb 10-G Soil Fungicide
032802–00060	All Season Slug & Snail Bait
032900–00002	Killquik Mist Insecticide
033161–00011	Duratox
033458–20001	Aqua Guard Sodium Hypochlorite 12.5%.
033753–00013	Bronopol Based Tablets
034810–00006	Wex-Cel Concentrated Germicidal Detergent
034810–00007	Super Wex-Cel Concentrated Germicidal Detergent
035138–00053	Combat Lawn Granulas
035512–00027	Turf Pride Fertilizer with Dursban
035512–00038	Dursban ''5m'' Granules
035512–00039	Dursban Plus 32–3–8 Fertilizer
035915–00005	Atrazine 5l Herbicide
035915–00007	Marzone Brand of Atrazine 80w Herbicide
035915–00013	Simazine 80 WP
035928–00001	Micro-Bicide No. 42
036272–00005	General Insect Spray Ready To Use Residual Insecticide
036272–00010	Mystic Food Plant Spray
036272–00011	Mystic General Purpose Insect Spray
036272–00012	Mystic P-D Insect Spray
036272–00015	Mystic Roach and Household Insect Spray (aq)
036272–00016	Mystic Roach and Household Insect Spray II
036272–00017	Mystic Ant and Roach Spray (aqueous)
036272–00018	Mystic Residual Spray (aq)
036272–00019	Concentrate-B
037023–00002	Kenic Flea Rid Spray for Dogs
038087–00002	Norbac 84-C
038519–00002	Thrasher's Roach Master
038539–00005	Imperial Chlor No. 1
038539–00006	Imperial Chlor No. 2

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
040208–00001	Crack-Shot Residual Insecticide
041451–00002	Natra Pet Flea and Tick Killer for Puppies + Kittens
041835–00010	Synerkyl Creme Rinse
042198–00005	Nac R-5
042697–00043	Safer Brand Total Release Indoor Insect Fogger III
042697–00045	Safer Brand Total Release Indoor Insect Fogger IV
042697–00047	Safer Brand Home Patrol Flea Killer Spray
042697–00048	Safer Brand Home Patrol Roach Killer Fogger
042697–00049	Safer Brand Home Patrol Flea Killer Fogger I
042697–00050	Safer Brand Home Patrol Flea Killer Fogger II
042702–20002	Pool Hypochlorite ''for Swimming Pool Water Treatment''
042836–00004	Freedom Five Flea and Tick Collar for Dogs
042836–00005	Freedom Five Flea and Tick Collar for Cats
043410–00071	Agri-Dyne 18
044215–00069	Mister II Insect Killer
044215–00103	Macco Pyrethrin Concentrate #3–6–10
044215–00160	Permethrin Pour-On
044446–00051	Renegade
045385–00002	Chem-Tox Roach & Ant Spray with Dursban
045385–00003	Chem-Tox Allethrin Fogging Spray
045385–00004	Chem-Tox Roach and Ant Spray with Diazinon
045385–00005	Chem-Tox Industrial & Household Spray
045385–00006	Chem-Tox General Purpose Spray
045385–00014	Chem-Tox Aqueous Food Plant Spray
045385–00015	Chem-Tox Do It Yourself Pest Control
045385–00021	Chem-Tox Dursban 2E Insecticide
045385–00022	Chem-Tox Dursban 4E Insecticide
045385–00033	Chem-Tox Diazinon 4E
045385–00042	Pyronox 1 Plus 4
045385–00047	Chem-Tox Dursban Plus Insect Killer
045385–00054	Chem-Tox Dursban 12
045385–00073	Pyrenone No.2
045385–00077	Kill Quick Concentrate
045385–00079	Cenol Flea Spray
045385–00083	Cenol Home Pest Control
045385–00090	Cenol Liquid Professional Insect Killer
045385–00091	Chem-Tox Diazinon Industrial Insect Spray
045385–00095	Chem-Tox Residual Insecticide Concentrate
045385–00096	Chem-Tox Insect Fogger
045600–00017	Insecta for Manholes
045735–00005	G-A Pack
045987–00003	Stop Buggin' Insect Repellent
045987–00005	Bugchaser Insect Repellent Tablecloth
045987–00007	Rodspray Indoor-Outdoor Crawling & Flying Insect Killer
046183–00010	Bio-Chlor LB-525
046773–00002	CL 2151
046773–00005	CL-216
046813–00040	CCL Flea & Tick Spray for Dog and Cats
046813–00044	CCL Flea & Tick Pet Shampoo Mousse
046813–00045	CCL Quick Breaking Insecticide Foam for Pets I
046813–00059	CCL Quick Breaking Insecticide Foam for Pets II
047000–00060	Household Insecticide (with Dursan*)
047000–00086	CT-54 A Pyrenone Insecticide
047251–00005	Alacide 512
047332–00001	CPF Insecticide
047371–00183	Formulation RTU-6075 (ma)
047567–00004	Liquid Guardian
049723–00001	Liquefied Chlorine Gas Under Pressure
049832–00006	Sunbelt Technical Sulfur
050932–00002	Concern Multi-Purpose Insect Killer
051036–00094	Diazonon 2 Dust
051036–00180	Micro Flo C0./ Parathion 8E
051036–00261	Chlorpyrifos 4E-Wheat
052338–00001	Farnam Three-Four-Eighty
053569–00001	Chem Klor
053883–00028	Martin's I.G. Regulator
053883–00032	Martin's Eraser
054309–00001	Chemfil Bacteriacide
054382–00006	Point-Guard Ready-To-Use Miticide/Insecticide
055800–00001	TY-D-BOL Automatic Toilet Bowl Cleaner
055800–00002	TY-D-BOL Automatic Toilet Cleaner
055809–00001	CRC Wasp and Hornet Killer
056159–00007	Beaphar Tick & Flea Collar for Dogs
056316–00002	Hyclor
056567–00002	A587
056567–00003	A 576
057091–00001	Biocare 90
057091–00005	Crystal Care 3'' Chlorinating Tablets
057091–00006	Crystal Care 1'' Chlorinating Tablets
057091–00007	Crystal Care Chlorinating Sticks
057091–00012	Crystal Care Granular Chlorinating Concentrate
058035–00006	Rejex-It AP-50
058300–00005	Zydox AD-05
058300–00006	Zydox-CD-02
058300–00007	Zydox-AD-02
058300–00009	Zydox-AH-05
059289–20001	Sodium Hypochlorite Solution
059578–00007	Rudducks Small Animal Spray
059578–00008	Rudducks Mite and Lice Spray for Birds
059818–00001	Chlorine Liquified Gas Under Preasure
059820–00003	Benzyl Benzoate Technical Miticide
060061–00013	Z-Spar Supertox TF Hard Type Antifouling Paint B-73 Brown
061202–00003	Picloram/2,4-D - EZ-Ject
061219–00002	Chlorine, Liquefied Gas
061483–00016	Dsma Powder
061483–00021	Ansar 170 Herbicide
061483–00022	Ansar 529 Herbicide

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
061483–00023	Ansar 184 Herbicide
061483–00024	Disodium Methanearsonate
061483–00026	Ansar DSMA Liquid
061483–00027	Ansar 3 A.G. Herbicide Msma
061483–00028	Monex Herbicide
061483–00029	Phyban H.C. Railroad and Industrial Herbicide
061483–00030	Ansar 8100 Herbicide
061483–00031	Monosodium Acid Methanearsonate Technical Grade
061483–00032	Ansar 170-H.C. Herbicide
061483–00033	MAD Herbicide
061483–00034	Monex 3 Herbicide
061483–00035	Ansar 529 H.C. Herbicide (western Formulation)
061483–00036	Ansar 8100 Herbicide (southern Formulation)
061483–00037	Ansar 529 H.C. Herbicide (southern Formulation)
061483–00038	Ansar 170 H.C. Herbicide Southern Formulation
061483–00039	Kacanate
061483–00041	Liquid DSMA
061483–00042	Daconate T
061667–20001	Sodium Hypochlorite
061966–00005	Insect Control
061966–00008	Outdoor Animal Control
061966–00009	Insect Kill
062097–00008	Exilis
062171–00002	Hexazinone-EZ Ject
062719–00344	Dma 4 IVM
063163–00001	Phenosol
063163–00002	Microcide
063191–00009	Ready To Use St. Gabriel Laboratories Hot Pepper Wax Animal Repellent
063191–00010	St. Gabriel Laboratories Hot Pepper Wax Inspect Repellent
063191–00011	St. Gabriel Laboratories Hot Pepper Wax Animal Repellent
063376–00003	Family Mosquito Repellent Mats
063376–00006	Family 500 Mosquito Repellent Mats
063608–00001	Vertigo
063992–00001	Roach Cap

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
064471–00001	Bye Deer
064684–00002	No-Foul-WB
064684–00003	No Foul-ZDF
065151–00003	Bactericide Plus
065481–00002	Hi-Lex Bleach
065626–00002	Mycotrol GH-OF for Crops
065626–00007	Mycotrol Wp Biological Insecticide
065695–20002	Sodium Hypochlorite Solution
065723–00007	A Q 90 Tablets 3''
065723–00008	Act 90 Chlorinating Tablets 1''
065723–00009	Aq 60 Medium Granular
065743–00001	Bright Day Bleach
066306–00004	Sunsect Insect Repellent Sunscreen (SPF 15)
066352–00001	Garlic Barrier
066352–00005	Garlic Barrier 3
066951–00001	Lindane Technical Crystals
066951–00002	Lindane Technical Powder
067517–00046	Methoxychlor Spray I
067517–00050	Tick and Mange Dip for Dogs
067576–00001	Joymat-R Mosquito Mat
067576–00002	Hunter Mosquito Coils
067770–00001	Liquefied Chlorine Gas Under Pressure
067813–00003	Dow Disinfectant Formulation 4A
067883–00001	Hygra
068086–00002	Flea Doctor
068146–00001	100% Methyl Bromide MAKR
068146–00002	MAKR Carbon Dioxide
068153–00001	Dichlojell Root Killer Cream
068403–00003	OKA Mosquito Repellent Sticks
068563–00003	Suet with Pepper Treat
068824–00001	Copperclad 888
068891–00010	Technical Lactic Acid
069223–20001	Sodium Hypochlorite 12.5%
069264–00001	Stat-5 Antimicrobial Spray
069797–00001	Cleanbrom
069838–00001	Afrotin Bwb
069874–00001	Sodium Chlorate Crystal

TABLE 2. — SECTION 3 REGISTRATIONS CANCELED FOR NON-PAYMENT OF MAINTENANCE FEE—Continued

Registration No.	Product Name
070051–00037	Agrisense Decoy Tpw Clips
070060–00003	M-96-018 Kaolin
070228–00001	Power-X
070419–00002	Cal-Hypo 65
070419–00003	Crystal Wave Calcium Hypochlorite Granular
070627–00030	Surfacide/60
070743–00001	Fire Ant Charlie
071076–00001	The Sprinklelizer System
071326–00001	Viralguard Cartridge
071352–00001	Tick and Flea Flicker
071504–00001	Eertavas
071655–00001	Sodium Hypochlorite
071769–00001	Primagard
071864–00001	Herli-BCD
072203–00001	Alcarbon 18/40 AG 005
072203–00002	Sorb* Kat AG 0026
072203–00003	Sorb* Kat AG 02
072304–00003	Captram P-90M
072481–00001	Serco Liquid Sanitizer
072481–00002	Serco Liquid Germicidal Cleaner
072481–00003	Serco Pine-Odor Disinfectant Cleaner
072567–00003	Sumo 2-2 ULV
072567–00004	Sumo 10-10 ULV
072647–00003	Repelkote IC Cartons
073211–00001	Osiris 25
073478–20004	Bleach Wipe

IV. Public Docket

Complete lists of registrations canceled for non-payment of the maintenance fee will also be available for reference during normal business hours in the OPP Public Docket, Rm. 119, Crystal Mall 2, 1921 Jefferson Davis Highway South, Arlington VA, and at each EPA Regional Office. Product-specific status inquiries may be made by telephone by calling toll-free 1–800–444–7255.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: July 11, 2001.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 01–18537 Filed 7–24–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7017–1]

Proposed CERCLA Prospective Purchaser Agreement; Twin City Casting Site, 750 Pelham Boulevard, City of Saint Paul, Ramsey County, MN

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9601, *et seq.,* and the authority of the Attorney General of the United States to compromise and settle claims of the United States as delegated, notice is hereby given of a proposed prospective purchaser agreement concerning the Twin City Casting Site, 750 Pelham Boulevard, City of Saint Paul, Ramsey County, Minnesota. The agreement requires the Housing and Redevelopment Authority of the City of Saint Paul (''HRA'') and the 2356 University Avenue limited Partnership (''Limited Partnership'') to pay $7,500.00 to the Hazardous Substance Superfund; and the Limited Partnership to complete cleanup work at the Site outlined in a response action plan in accordance with and as required by the Minnesota Pollution Control Agency's Voluntary Investigation and Cleanup Program. The agreement includes the Environmental Protection Agency's (''EPA'') covenant not to sue the HRA and the Limited Partnership under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a); contribution protection for the HRA and the Limited Partnership under Section 113(f)(2), 42 U.S.C. 9613(f)(2); and an agreement by EPA not to file notice of any liens it may have against the Site under section 107(1) of CERCLA, 42 U.S.C. 9607(1) as the result of costs incurred by EPA in connection with a previous response action at the Site. For thirty (30) days following the date of publication of this notice, the United States will receive written comments relating to the agreement. The United States will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations which indicate that the agreement is inappropriate, improper, or inadequate. The United States' response to any comments received will be available for public inspection at U.S. EPA, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604. Please contact Diana Embil at (312) 886–7889, to make arrangements to inspect the comments.

DATES: Comments must be submitted on or before August 24, 2001.

ADDRESSES: The proposed settlement is available for public inspection at U.S. EPA, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604. A copy of the proposed agreement may be obtained from Diana Embil, at U.S. EPA, Region 5, 77 W. Jackson Boulevard (C–14J), Chicago, IL 60604, (312) 886–7889. Comments should reference the Twin City Casting Site prospective purchaser agreement and should be addressed to Diana Embil.

FOR FURTHER INFORMATION CONTACT: Diana Embil at U.S. EPA, Region 5, 77 W. Jackson Boulevard (C–14J), Chicago, IL 60604, (312) 886–7949.

Dated: July 11, 2001.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 01–18531 Filed 7–24–01; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

July 18, 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, 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 September 24, 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 Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0654.

Title: Application for a Multipoint Distribution Service Authorization.

Form No.: FCC 304.

Type of Review: Revision of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 200.

Estimated Hours Per Response: 19 hours (1 hour respondent, 16 hours consulting engineer, 2 hours contract attorney).

Frequency of Response: On occasion.

Cost to Respondents: $602,000.

Estimated Total Annual Burden: 200 hours.

Needs and Uses: The FCC 304 will be used by existing MDS operators to modify their stations or to add a signal booster station. It will also be used by some winning bidders in the competitive bidding process to propose facilities to provide wireless cable service over any usable MDS channels within their Basic Trading Area (BTA). This collection of information also includes the burden for the technical rules involving the interference or engineering analysis and service requirements under sections 21.902, 21.913 and 21.938. These analyses will not be submitted with the application but will be retained by the operator and must be made available to the Commission upon request. The data is used by FCC staff to ensure that the applicant is legally, technically and otherwise qualified to become a Commission licensee. MDS/ITFS applicants/licensees will need this

information to perform the necessary analyses of the potential for harmful interference to their facility. The Commission will require this form to be filed electronically thirty days after the issuance of a public notice.

OMB Number: 3060–0171.

Title: Section 73.1125 Station main studio location.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 135.

Estimated hours per response: 0.5–5 hours (0.5 hours respondent-notification; 2 hours respondent, 1 hour contract attorney, 2 hours consulting engineer-explanatory letter).

Frequency of response: Reporting, on occasion.

Cost to respondents: $12,550.

Estimated total annual burden: 83 hours.

Needs and Uses: Section 73.1125(a) requires AM, FM or TV licensees to locate their main studio at any point that is within either the principal community contour of any station licensed to its community of license or 25 miles from the reference coordinates of the center of its community of license. If the station relocates its main studio from one point to another within the principal community contour or from a point outside the principal community contour to one within it, the licensee is required to notify the FCC pursuant to Section 73.1125(d)(1). In addition, where the main studio is already authorized at a location outside the locations specified in (a), and the licensee desires to specify a new location also located outside those locations, written authority must be sought and received from the Commission prior to relocation of the main studio. This written authority is sought by the filing an explanatory letter with the Commission. The data is used by FCC staff to assure that the station main studio is located within the principal community contour of any station licensed to the community of license or 25 miles from the reference coordinates of the center of its community of license. The explanatory letter is used by FCC staff to determine whether the circumstances are sufficient to warrant a waiver of the Commission's main studio rules.

OMB Number: 3060–0215.

Title: Section 73.3527 Local Public Inspection File of Noncommercial Educational Stations.

Form Number: None.

Type of Review: Extension of currently approved collection.

Affected Public: Not for-profit institutions.

Number of Respondents: 2,515 noncommercial radio/television licensees recordkeepers.

Estimated time per response: 104 hours per year.

Frequency of response: Recordkeeping.

Cost to respondents: $0.

Total annual burden: 261,575.

Needs and Uses: Section 73.3527 requires that each licensee/permittee of a noncommercial broadcast station maintain a file for public inspection at its main studio or at another accessible location in its community of license. The contents of the file vary according to type of service and status. The contents include, but are not limited to, copies of certain applications tendered for filing, a statement concerning petitions to deny filed against such applications, copies of ownership reports and annual employment reports, statements certifying compliance with filing announcements in connection with renewal applications, a list of donors supporting specific programs, etc.

In addition, Section 73.3527(a)(7) requires that each broadcast licensee of a noncommercial educational station place in a public inspection file a list of community issues addressed by the station's programming. This list is kept on a quarterly basis and contains a brief description of how each issue was treated. This rule also specifies the length of time, which varies by document type, that each record must be retained in the public file. The data is used by the public and FCC to evaluate information about the licensee's performance and to ensure that station is addressing issues concerning the community to which it is licensed to serve.

OMB Approval No.: 3060–0664.

Title: Certification of Completion of Construction for a Multipoint Distribution Service Station.

Form No.: FCC 304–A.

Type of Review: Revision of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 500.

Estimated Hours Per Response: 0.5 hours.

Frequency of Response: On occasion.

Cost to Respondents: $0.

Estimated Total Annual Burden: 250 hours Needs and Uses: The FCC 304A will be used to certify that the facilities as authorized in the FCC 304 have been completed and that the station is now operational, ready to provide service to the public. Each license will specify as a condition that upon the completion of construction, the licensee must file with the Commission an FCC 304A, certifying that the facilities as authorized have been completed and that the station is now operational and ready to provide service to the public. The conditional license shall be automatically forfeited upon the expiration of the construction period specified in the license unless within 5 days after that date an FCC 304A has been filed with the Commission. The Commission will require this form to be filed electronically thirty days after the issuance of a public notice.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–18438 Filed 7–24–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–01–41–C (Auction No. 41); DA 01–1592]

Narrowband PCS Spectrum Auction Scheduled for October 3, 2001; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures and minimum opening bids for the upcoming auction of Personal Communications Services (PCS) licenses in the 900 MHz band (Narrowband PCS), scheduled for October 3, 2001 (Auction No. 41).

DATES: Auction No. 41 is scheduled for October 3, 2001.

FOR FURTHER INFORMATION CONTACT: Auctions and Industry Analysis Division: Howard Davenport, Legal Branch, or Lyle Ishida, Auctions Operations Branch, at (202) 418–0660; Lisa Stover, Auctions Operations Branch, at (717) 338–2888. Commercial Wireless Division: Gary Oshinsky, Policy and Rules Branch, at (202) 418–7167, or JoAnn Epps, Licensing and Technical Analysis Branch, at (202) 418–0620. Media Contact: Meribeth McCarrick at (202) 418–0654.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 41 Procedures Public Notice* released July 9, 2001. The complete text of the *Auction No. 41 Procedures Public Notice*, including attachments, is available for inspection and copying during normal business hours in the

FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, D.C. 20554. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, D.C. 20036, (202) 857–3800. It is also available on the Commission's web site at *http://www.fcc.gov*.

List of Attachments available at the FCC:

Attachment A—Narrowband PCS
Attachment B—FCC Auction Seminar Registration Form
Attachment C—Electronic Filing and Review of the FCC Form 175
Attachment D—Guidelines for Completion of FCC Form 175 and Exhibits
Attachment E—Auction—Specific Instructions for FCC Remittance Advice (FCC Form 159-February 2000 edition)
Attachment F—Accessing the FCC Network to File FCC Form 175
Attachment G—Minimum Acceptable Bids, Bid Increments, and the Smoothing Formula
Attachment H—Summary Listing of Document from the Commission and the Wireless Telecommunications Bureau Addressing Application of the Anti-Collusion Rules

I. General Information

A. Introduction

1. By the *Auction No. 41 Procedures Public Notice*, the Wireless Telecommunications Bureau (''Bureau'') announces the procedures and minimum opening bids for the upcoming auction of Personal Communications Services (''PCS'') licenses in the 900 MHz band (''Narrowband PCS''), scheduled for October 3, 2001 (Auction No. 41). On June 12, 2001, in accordance with the Balanced Budget Act of 1997, the Bureau released *Auction No. 41 Comment Public Notice*, 66 FR 32810 (June 18, 2001), seeking comment on reserve prices or minimum opening bids and the procedures to be used in Auction No. 41. In addition, on June 21, 2001, the Bureau released a public notice that corrected Attachment A of the *Auction No. 41 Comment Public Notice*, 66 FR 34680 (June 29, 2001). The Bureau received one comment in response to the *Auction No. 41 Comment Public Notice* and one comment in response to the *Auction No. 41 Comment Public Notice*. No reply comments were submitted.

i. Background of Proceeding

2. In the *PCS First Report and Order*, 58 FR 42681 (August 11, 1993), the Commission provided for the operation of narrowband PCS in three one-megahertz blocks in the 900 MHz band. The Commission broadly defined PCS as mobile and fixed communications offerings that serve individuals and businesses and that can be integrated with a variety of competing networks. The Commission also adopted a spectrum allocation and channelization plan, licensing rules, and technical standards for narrowband PCS. In the *Competitive Bidding Second Report and Order*, 59 FR 22980 (May 4, 1994), the Commission determined that, pursuant to section 309(j) of the Communications Act of 1934, as amended, PCS is subject to competitive bidding in the case of mutually exclusive applications. The Commission also established competitive bidding rules specifically for narrowband PCS.

3. Subsequently, in the *Narrowband Second Report and Order and Second Further Notice of Proposed Rule Making*, 65 FR 35843 (June 6, 2000), the Commission adopted modifications to its service rules for narrowband PCS. Specifically, the Commission: (i) Adopted Major Trading Areas (''MTAs'') for future licensing of narrowband PCS; (ii) eliminated the restriction, which only applied to 100 kilohertz of the 3 megahertz blocks allocated for narrowband PCS, that limited eligibility for acquiring narrowband PCS response channels to existing paging licensees; (iii) modified the construction and minimum coverage requirement for narrowband PCS spectrum by allowing licensees to meet a ''substantial service'' alternative; (iv) adopted subpart Q of part 1 of the Commission rules to apply to narrowband PCS; and (v) eliminated the narrowband PCS spectrum aggregation limit, finding that it is not necessary to prevent an undue concentration of licenses. In the *Third Narrowband Report and Order and Order on Reconsideration*, 66 FR 29911 (June 4, 2001), the Commission modified its channel band plan to allow for the licensing of narrowband PCS spectrum for 8 nationwide licenses and seven licenses in each of the 51 MTAs. Further, the Commission channelized and licensed the one megahertz of narrowband spectrum that had been held in reserve and re-channelized 712 kilohertz of previously channelized spectrum for which licenses had not been auctioned. With that action, the Commission resolved the remaining issues concerning narrowband PCS in preparation for auctioning licenses for the remaining narrowband PCS spectrum.

ii. Licenses To Be Auctioned

4. The licenses available in Auction No. 41 include 365 Personal Communications Service (PCS) licenses in the 900 MHz band (''narrowband PCS''). Eight (8) licenses will be offered on a nationwide basis and seven (7) licenses will be offered in each of 51 Major Trading Areas (MTAs), for a total of 357 MTA licenses. This table describes the licenses that will be auctioned:

Channel No.	Channel description	Frequency bands	Bandwidth (kHz)
	Nationwide Licenses		
18	One 100 kHz unpaired channel	940.65–940.75 MHz	100
19	One 50 kHz/50 kHz paired channel	901.3–901.35, 930.5–930.55 MHz	100
20	One 50 kHz/50 kHz paired channel	901.9–901.95, 930.75–930.8 MHz	100
21	One 50 kHz/150 kHz paired channel	901.5–901.55, 930–930.15 MHz	200
22	One 50 kHz/150 kHz paired channel	901.6–901.65, 930.15–930.3 MHz	200
23	One 50 kHz/100 kHz paired channel	901.45–901.5, 940.55–940.65 MHz	150
24	One 50 kHz/100 kHz paired channel	901.55–901.6, 940.3–940.4 MHz	150
25	One 50 kHz/100 kHz paired channel	901.85–901.9, 940.45–940.55 MHz	150
Nationwide Subtotal.			1,150 kHz
	MTA Licenses		
26	One 50 kHz unpaired channel	901.35–901.4 MHz	50

Channel No.	Channel description	Frequency bands	Bandwidth (kHz)
27	One 50 kHz unpaired channel	901.4–901.45 MHz	50
28	One 50 kHz unpaired channel	940.4–940.45 MHz	50
29*	One 50 kHz/50 kHz paired channel	901.95–902.0, 930.8–930.85 MHz	100
30	One 50 kHz/100 kHz paired channel	901.65–901.7, 930.3–930.4 MHz	150
31*	One 50 kHz/150 kHz paired channel	901.7–901.75, 930.85–931 MHz	200
32*	One 12.5 kHz/100 kHz paired channel	901.8375–901.85, 940.9–941 MHz	112.5
MTA Sub-total.			712.5
Grand Total			1,862.5

*Narrowband PCS channels 29, 31, and 32 in MTA002 (Los Angeles-San Diego) will be available subject to protection of incumbent licenses held by Paging Systems, Inc. under call signs WPOI469, WPOI470, WPOI471, and WPOI472. *See* In the Matter of License Communications Services, Inc. *et al.*, *Memorandum Opinion and Order*, 62 FR 55348 October 24, 1997).

B. Rules and Disclaimers

i. Relevant Authority

5. Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to the narrowband services, contained in title 47, parts 24 and 90 of the Code of Federal Regulations, and those relating to application and auction procedures, contained in title 47, part 1 of the Code of Federal Regulations.

6. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, ''terms'') contained in this Public Notice; the *Auction No. 41 Comment Public Notice*; the *Part 1 Fifth Report and Order*, 65 FR 52401 (August 29, 2000) (as well as prior Commission proceedings regarding competitive bidding procedures); the *Narrowband PCS R&O/Further Notice*, 62 FR 27507 (May 20, 1997); the *Narrowband Second Report and Order and Second Further Notice of Proposed Rule*; and the *Third Narrowband Report and Order and Order on Reconsideration*.

7. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Internet node via anonymous ftp at ftp://fcc.gov or the FCC Auctions World Wide Web site at *http://www.fcc.gov/wtb/auctions*. Additionally, documents may be obtained for a fee, by calling the Commission's copy contractor, International Transcription Service, Inc. (''ITS''), at (202) 314–3070. When ordering documents from ITS, please provide the appropriate FCC number (for example, FCC 01–135 for the *Third Narrowband Report and Order and Order on Reconsideration*).

ii. Prohibition of Collusion

8. To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements. Note that in Auction No. 41, applicants that apply to bid for a nationwide license would be precluded from communicating with all other applicants. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. Bidders competing for licenses in the same geographic license areas are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he or she is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (*e.g.,* law firm or consulting firm), a violation could similarly occur. In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.

9. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted. The Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering the same geographic areas. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other applicants for licenses covering the same geographic areas. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c).

10. In addition, § 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders therefore are required to make such notification to the Commission immediately upon discovery.

11. A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment H of the *Auctions No. 41 Procedures Public Notice*.

iii. Due Diligence

12. Potential bidders are advised that there is one incumbent licensee already licensed and operating in MTA002 on channels that will be subject to the upcoming auction. Specifically,

narrowband PCS channels 29, 31, and 32 in MTA002 (Los Angeles-San Diego) will be available subject to protection of currently operational incumbent licenses held by Paging Systems, Inc. under the following call signs:

WPOI469 930.80–930.85 MHz (channel 29)
WPOI470 940.95–940.975 MHz (channel 32)
WPOI471 940.90–940.95 MHz (channel 32)
WPOI472 930.90–930.95 MHz (channel 31)

13. MTA licensees must protect such incumbents from harmful interference. These limitations will restrict the ability of such MTA licensees to use the above-referenced channels in portions of MTA002.

14. In addition, potential bidders seeking licenses for MTAs that border Canada or Mexico will be subject to on-going coordination arrangements with those respective countries. Potential bidders are also subject to the Interim Sharing Arrangement with Canada for the Bands 901–902 MHz, 930–931 MHz, and 940–941 MHz and to any restrictions that arise from future agreements with Canada or Mexico.

15. Potential bidders also should be aware that certain applications (including those for modification), petitions for rulemaking, requests for special temporary authority (''STA'') waiver requests, petitions to deny, petitions for reconsideration, and applications for review may be pending before the Commission and relate to particular applicants or incumbent licensees. In addition, certain decisions reached in the narrowband proceeding may be subject to judicial appeal and may be the subject of additional reconsideration or appeal. We note that resolution of these matters could have an impact on the availability of spectrum in Auction No. 41. In addition, although the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction.

16. Potential bidders are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 41.

17. Potential bidders may obtain information about licenses available in Auction No. 41 through the Bureau's licensing databases on the World Wide Web at *http://www.fcc.gov/wtb/uls*. Potential bidders should direct questions regarding the search capabilities to the FCC Technical Support hotline at (202) 414–1250 (voice) or (202) 414–1255 (TTY), or via e-mail at *ulscomm@fcc.gov*. The hotline is available to assist with questions Monday through Friday, from 7:00 AM to 10 PM ET, Saturday, 8:00 AM to 7 PM ET, and Sunday, 12:00 noon to 6 PM ET. In order to provide better service to the public, *all calls to the hotline are recorded.* The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in, or near, the MTA for which they plan to bid.

iv. Bidder Alerts

18. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

19. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that a FCC auction represents an opportunity to become a FCC licensee in this service, subject to certain conditions and regulations. A FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does a FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.

20. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 41 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a ''cold call'' from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than $25,000.
- The sales representative makes verbal representations that: (a) The Internal Revenue Service (''IRS''), Federal Trade Commission (''FTC''), Securities and Exchange Commission (''SEC''), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

21. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 41 may also call the FCC Consumer Center at (888) CALL–FCC ((888) 225–5322).

i. National Environmental Policy Act (''NEPA'') Requirements

22. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility. The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The licensee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee must also prepare

environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

C. Auction Specifics

i. Auction Date

23. The auction will begin on Wednesday, October 3, 2001. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

24. The Commission announces that bidding for Auction No. 41 will be temporarily suspended October 8, 2001, in observance of the federal holiday.

ii. Auction Title

25. Auction No. 41—Narrowband PCS

iii. Bidding Methodology

26. The bidding methodology for Auction No. 41 will be simultaneous multiple round bidding. Bidding will be permitted only from remote locations, either telephonically or electronically (by computer via the Internet or the Bureau's wide area network).

iv. Pre-Auction Dates and Deadlines

27. These are important dates relating to Auction No. 41:

Auction Seminar_____August 15, 2001
Short-Form Application (FCC Form 175)_____August 24, 2001; 6:00 p.m. ET
Upfront Payments (via wire transfer)_____September 13, 2001; 6 p.m. ET
Mock Auction_____September 28, 2001
Auction Begins_____October 3, 2001

v. Requirements for Participation

28. Those wishing to participate in the auction must:

- Submit a short-form application (FCC Form 175) electronically by 6:00 p.m. ET, August 24, 2001.
- Submit a sufficient upfront payment and a FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, September 13, 2001.
- Comply with all provisions outlined in this public notice.

vi. General Contact Information

29. The following is a list of general contract information relating to Auction No. 41:

General Auctions Information:
General Auction Questions Seminar Registration:
FCC Auctions Hotline, (888) 225–5322, Press Option #2, or direct (717) 338–2888, Hours of service: 8 a.m.–5:30 p.m. ET
Auction Legal Information:
Auction Rules, Policies, Regulations
Auctions and Industry Analysis Division, Legal Branch (202) 418–0660
Licensing Information:
Rules, Policies, Regulations, Licensing Issues, Due Diligence, Incumbency Issues
Commercial Wireless Division, (202) 418–0620
Technical Support:
Electronic Filing, Automated Auction System
FCC Auctions Technical Support Hotline, (202) 414–1250 (Voice), (202) 414–1255 (TTY), Hours of service: Monday through Friday 7 a.m. to 10:00 p.m. ET, Saturday, 8:00 a.m. to 7:00 p.m., Sunday, 12:00 noon to 6:00 p.m.
Payment Information:
Wire Transfers, Refunds
FCC Auctions Accounting Branch, (202) 418–1995, (202) 418–2843 (Fax)
Telephonic Bidding:
Will be furnished only to qualified bidders
FCC Copy Contractor:
Additional Copies of Commission documents
International Transcription Services, Inc., 445 12th Street, SW., Room CY–B400, Washington, DC 20554, (202) 314–3070
Press Information:
Meribeth McCarrick (202) 418–0654
FCC Forms:
(800) 418–3676 (outside Washington, DC), (202) 418–3676 (in the Washington Area), http://www.fcc.gov/formpage.html
FCC Internet sites:
http://www.fcc.gov, http://www.fcc.gov/wtb/auctions

I. Short-Form (FCC Form 175) Application Requirements

30. Guidelines for completion of the short-form (FCC Form 175) are set forth in Attachment D of the *Auction No. 41 Procedures Public Notice.* The short-form application seeks the applicant's name and address, legal classification, status, small or very small business bidding credit eligibility, identification of the license(s) sought, the authorized bidders and contact persons. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license and, as discussed in section II.E (Provisions Regarding Defaulters and Former Defaulters), that they are not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.

A. License Selection

31. The Bureau has modified Form 175 for Auction No. 41. In Auction No. 41, Form 175 will include a mechanism that allows an applicant to filter the licenses by License Area (Nationwide or MTA), Market, and/or Channel Number to create customized lists of licenses. The applicant will make selections for one or more of the filter criteria and the system will produce a list of licenses satisfying the specified criteria. The applicant may apply for all the licenses in the customized list by using the ''Save all filtered licenses'' option; select and save individual licenses separately from the list; or create a second customized list without selecting any of the licenses from the first list. Applicants also will be able to select licenses from one customized list and then create a second customized list to select additional licenses.

B. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

32. All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by §§ 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to file an ''Exhibit A'' providing a full and complete statement of the ownership of the bidding entity. The ownership disclosure standards for the short-form are set forth in § 1.2112 of the Commission's rules.

C. Consortia And Joint Bidding Arrangements (FCC Form 175 Exhibit B)

33. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. *See* 47 CFR 1.2105(a)(2)(viii) and 1.2105(c)(1). Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid. *See* 47 CFR 1.2105(a)(2)(ix). As discussed, if an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the

names of parties to the discussions on its applications and may not continue discussions with applicants for the same geographic license area(s) after the deadline. Where applicants have entered into consortia or joint bidding arrangements, applicants must submit an ''Exhibit B'' to the FCC Form 175.

34. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, bidders are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

D. Eligibility

i. Bidding Credit Eligibility (FCC Form 175 Exhibit C)

35. In the *Narrowband Second Report and Order and Second Further Notice of Proposed Rule Making,* the Commission adopted bidding credits on a ''tiered'' basis to all small businesses in the narrowband PCS service.

36. Bidding credits are available to small and very small businesses, or consortia thereof, (as defined in 47 CFR 1.2110(c). A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average of the aggregated annual gross revenues for each of the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests:

• A bidder with attributed average annual gross revenues of not more than $40 million for the preceding three years receives a 15 percent discount on its winning bids for narrowband PCS licenses;

• A bidder with attributed average annual gross revenues of not more than $15 million for the preceding three years receives a 25 percent discount on its winning bids for narrowband PCS licenses.

37. Bidding credits are not cumulative; qualifying applicants receive either the 15 percent or the 25 percent bidding credit, but not both.

ii. Tribal Land Bidding Credit

38. To encourage the growth of wireless services in federally recognized tribal lands, the Commission has implemented a tribal land bidding credit. *See* Part V.C.

iii. Applicability of Part 1 Attribution Rules

39. *Controlling interest standard.* On August 14, 2000, the Commission released the *Part 1 Fifth Report and Order,* in which the Commission, *inter alia,* adopted a ''controlling interest'' standard for attributing to auction applicants the gross revenues of their investors and affiliates in determining small business eligibility for future auctions. The Commission observed that the rule modifications adopted in the various part 1 orders would result in discrepancies and/or redundancies between certain of the new part 1 rules and existing service-specific rules, and the Commission delegated to the Bureau the authority to make conforming edits to the Code of Federal Regulations (CFR) consistent with the rules adopted in the part 1 proceeding. Part 1 rules that superseded inconsistent service-specific rules will control in Auction No. 41. *Accordingly, the ''controlling interest'' standard as set forth will be in effect for Auction No. 41, even if conforming edits to the CFR are not made prior to the auction.*

40. *Control.* The term ''control'' includes both *de facto* and *de jure* control of the applicant. Typically, *ownership of at least 50.1 percent of an entity's voting stock evidences de jure control. De facto* control is determined on a case-by-case basis. The following are some common indicia of *de facto* control:

• The entity constitutes or appoints more than 50 percent of the board of directors or management committee;

• The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or

• The entity plays an integral role in management decisions.

41. *Attribution for small and very small business eligibility.* In determining which entities qualify as small or very small businesses, the Commission will consider the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the affiliates of those principals or entities, the applicant and its affiliates, will be counted in determining small business eligibility.

42. A consortium of small or very small businesses is a ''conglomerate organization formed as a joint venture between or among mutually independent business firms,'' each of which *individually* must satisfy the definition of small or very small business in § 1.2110(f). Thus, each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. We note that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for small or very small business credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

iv. Supporting Documentation

43. Applicants should note that they will be required to file supporting documentation to their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as small or very small businesses (or consortia of small or very small businesses) for this auction.

44. Applicants should further note that submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application and its attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

45. *Small or very small business eligibility (Exhibit C).* Entities applying to bid as small or very small businesses (or consortia of small or very small businesses) will be required to disclose on Exhibit C to their FCC Form 175 short-form applications, *separately and in the aggregate,* the gross revenues for the preceding three years of each of the following: (i) The applicant, (ii) its affiliates, (iii) its controlling interests, and (iv) the affiliates of its controlling interests. Certification that the average

annual gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, a schedule of gross revenues for *each* of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying as a consortium of small or very small businesses, this information must be provided for each consortium member.

E. Provisions Regarding Defaulters and Former Defaulters (FCC Form 175 Exhibit D)

46. Each applicant must certify on its FCC Form 175 application that it is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must attach to its FCC Form 175 application a statement made under penalty of perjury indicating whether or not the applicant has ever been in default on any Commission licenses or has ever been delinquent on any non-tax debt owed to any federal agency. Applicants must include this statement as Exhibit D of the FCC Form 175. If any of an applicant's controlling interests holders or their affiliates, as defined by § 1.2110 of the Commission's rules (as recently amended in the *Part 1 Fifth Report and Order*) have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, the applicant must include such information as part of the same attached statement. Prospective bidders are reminded that the statement must be made under penalty of perjury and, further, submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

47. ''Former defaulters''—*i.e.,* applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 41, provided that they are otherwise qualified. However, as discussed *infra* in section III.D.iii, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

F. Installment Payments

48. Installment payment plans will not be available in Auction No. 41.

G. Other Information (FCC Form 175 Exhibits E and F)

49. Applicants owned by minorities or women, as defined in 47 CFR 1.2110(c)(2), may attach an exhibit (Exhibit E) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of ''designated entities'' in its auctions. Applicants wishing to submit additional information may do so on Exhibit F (Miscellaneous Information) to the FCC Form 175.

H. Minor Modifications to Short-Form Applications (FCC Form 175)

50. After the short-form filing deadline (August 24, 2001), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.,* change their license selections or proposed service areas, change the certifying official or change control of the applicant or change bidding credits). *See* 47 CFR 1.2105. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these changes on-line, and submit a letter to Margaret Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Suite 4–A760 Washington, DC 20554, briefly summarizing the changes. Questions about other changes should be directed to Howard Davenport of the Auctions and Industry Analysis Division at (202) 418–0660.

I. Maintaining Current Information in Short-Form Applications (FCC Form 175)

51. Applicants have an obligation under 47 CFR 1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. Pre-Auction Procedures

A. Auction Seminar

52. On Wednesday, August 15, 2001, the FCC will sponsor a free seminar for Auction No. 41 at the Federal Communications Commission, located at 445 12th Street, SW, Washington, DC. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC Automated Auction System, and the narrowband PCS and auction rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

53. To register, complete the registration form, Attachment B of the *Auction No. 41 Procedures Public Notice* and submit it by Monday, August 13, 2001. Registrations are accepted on a first-come, first-served basis.

B. Short-Form Application (FCC Form 175)—Due August 24, 2001

54. In order to be eligible to bid in this auction, applicants must first submit a FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6 p.m. ET on August 24, 2001. Late applications will not be accepted.

55. There is no application fee required when filing a FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See* Part III.D.

i. Electronic Filing

56. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at noon ET on August 15, 2001, until 6:00 p.m. ET on August 24, 2001. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on August 24, 2001.

57. Applicants must press the ''SUBMIT Application'' button on the ''Submission'' page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C of the *Auction No. 41 Procedures Public Notice.* Technical support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); the hours of service Monday through Friday, from 7 A.M. to 10 P.M. ET, Saturday, 8 A.M. to 7 P.M. ET, and Sunday, 12 noon to 6 P.M. ET. In order to provide better service to the

public, *all calls to the hotline are recorded*.

58. Applicants can also contact Technical Support via e-mail. To obtain the address, click the Support tab on the Form 175 Homepage.

ii. Completion of the FCC Form 175

59. Applicants should carefully review 47 CFR 1.2105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of the *Auction No. 41 Procedures Public Notice*. Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form. Attachments C and D *Auction No. 41 Procedures Public Notice* provide information on the required attachments and appropriate formats.

iii. Electronic Review of FCC Form 175

60. The FCC Form 175 electronic review system may be used to locate and print applicants' FCC Form 175 information. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. For this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any exhibits to their FCC Form 175 applications. There is no fee for accessing this system. *See* Attachment C of the *Auction No. 41 Procedures Public Notice* for details on accessing the review system.

C. Application Processing and Minor Corrections

61. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (i) Those applications accepted for filing; (ii) those applications rejected; and (iii) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

62. As described more fully in the Commission's rules, after the August 24, 2001, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (e.g., change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).

D. Upfront Payments—Due September 13, 2001

63. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by a FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6:00 p.m. ET on September 13, 2001.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 41 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the September 13, 2001, deadline will result in dismissal of the application and disqualification from participation in the auction.

i. Making Auction Payments by Wire Transfer

64. Wire transfer payments must be received by 6:00 p.m. ET on September 13, 2001. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC 910–0180
OBI Field: (Skip one space between each information item)
''Auctionpay''
Taxpayer Identification No.: (same as FCC Form 159, block 12)
Payment Type Code (same as FCC Form 15, block 24A: A41U)
FCC Code 1 (same as FCC Form 159, block 28A: ''41'')
Payer Name (same as FCC Form 159, block 2)
Lockbox No. # 358420

Note: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

65. Applicants must fax a completed FCC Form 159 (Revised 2/00) to Mellon Bank at (412) 209–6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write ''Wire Transfer—Auction Payment for Auction Event No. 41.'' Bidders should confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.

i. FCC Form 159

66. A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/00) must be faxed to Mellon Bank in order to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/00) is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment E of the *Auction No. 41 Procedures Public Notice*. An electronic version of the FCC Form 159 is available after filing the FCC Form 175. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

iii. Amount of Upfront Payment

67. In the *Part 1 Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making*, 62 FR 13540 (March 21, 1997) the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order*, the Commission ordered that ''former defaulters,'' *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments fifty percent greater than non-'former defaulters.''

68. In the *Auction No. 41 Comment Public Notice*, we proposed translating bidders' upfront payments to bidding units to define a bidder's maximum eligibility. In order to bid on a license, otherwise qualified bidders who applied for that license on Form 175 must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

69. In the *Auction No. 41 Comment Public Notice*, the Bureau proposed upfront payments on a license-by-

license basis using the following formula:

$.00002 * kHz * License Area Population with a minimum of $1,000 per license.

Moir & Hardman and Space Data addressed whether the Bureau should adopt its proposed formula for calculating upfront payments for Narrowband PCS. Both contend that the proposed upfront payments are excessively high and recommend that they be significantly reduced. No other comments or reply comments were received.

70. Upon careful consideration of the comments received, the Bureau has decided to exercise its discretion to adjust the upfront payments. The revised figures are approximately one-half of the original proposal. The new formula for upfront payments is:

$.00001 * kHz * License Area Population with a minimum of $1,000 per license.

The specific upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 41 Comment Public Notice.*

71. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units it may wish to bid on in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. Bidders should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

EXAMPLE: UPFRONT PAYMENTS AND BIDDING FLEXIBILITY

Market No.	Ch. No.	Market name	Population	Bidding units	Upfront payment
MTA009	30	Philadelphia	8,927,748	13,000	$13,000
MTA010	30	Washington-Baltimore	7,777,875	12,000	12,000

If a bidder wishes to bid on both licenses in a round, it must have selected both on its FCC Form 175 and purchased at least 25,000 bidding units (13,000 + 12,000). If a bidder only wishes to bid on one, but not both, purchasing 13,000 bidding units would meet the requirement for either license. The bidder would be able to bid on either license, *but not both at the same time.* If the bidder purchased only 12,000 bidding units, it would have enough eligibility for the Washington-Baltimore license but not for the Philadelphia license.

72. Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

Note: An applicant may, on its FCC Form 175, apply for every applicable license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

iv. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

73. The Commission will use wire transfers for all Auction No. 41 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Tim Dates or Gail Glasser, at (202) 418–2843 by September 13, 2001. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call (202) 418–1995.

Name of Bank
ABA Number
Contact and Phone Number
Account Number to Credit
Name of Account Holder
Taxpayer Identification Number
Correspondent Bank (if applicable)
ABA Number
Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in Part V.E.

E. Auction Registration

74. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

75. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, one containing the confidential bidder identification number (BIN) required to place bids and the other containing the SecurID cards. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

76. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Thursday, September 27, 2001 should contact the Auctions Hotline at (717) 338–2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

77. Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing in person at the FCC Auction Headquarters located at 445 12th St., SW., Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

F. Remote Electronic Bidding

78. This is the first auction that the Commission will conduct over the Internet. Telephonic bidding and access via the Bureau's wide area network will also be available, as in prior auctions. Qualified bidders are permitted to bid telephonically or electronically, *i.e.,* over the Internet or the Bureau's wide area network. In either case, each authorized bidder must have its own Remote Security Access SecurID card,

which the FCC will provide at no charge. Each applicant with less than three authorized bidders will be issued two SecurID cards, while applicants with three authorized bidders will be issued three cards. For security purposes, the SecurID cards and the instructions for using them are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction, therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 41. The telephonic bidding phone number will be supplied in the first Federal Express mailing of the confidential bidder identification number. Your bidding preference—electronic or telephonic—is specified on the FCC Form 175.

79. Please note that the SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

G. Mock Auction

80. All qualified bidders will be eligible to participate in a mock auction on Friday, September 28, 2001. The mock auction will enable applicants to become familiar with the electronic system prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

81. The first round of bidding for Auction No. 41 will begin on Wednesday, October 3, 2001. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

82. In the *Auction No. 41 Comment Public Notice,* we proposed to award all licenses in Auction No. 41 in a single, simultaneous multiple round auction. We received no comments on this issue. Therefore, we conclude that it is operationally feasible and appropriate to auction the narrowband PCS licenses through a single, simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, we believe, allows bidders to take advantage of any synergies that exist among licenses and is administratively efficient.

ii. Maximum Eligibility and Activity Rules

83. In the *Auction No. 41 Comment Public Notice,* we proposed that the amount of the upfront payment submitted by a bidder would determine the initial maximum eligibility (as measured in bidding units) for each bidder. We received no comments on this issue.

84. For Auction No. 41 we adopt this proposal. The amount of the upfront payment submitted by a bidder determines the initial maximum eligibility (in bidding units) for each bidder. Note again that upfront payments are not attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility (*see* ''Amount of Upfront Payment'' in Part III.D.iii). The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids. As there is no provision for increasing a bidder's maximum eligibility during the course of an auction (as described under ''Auction Stages'' in Part IV.A.iii), prospective bidders are cautioned to calculate their upfront payments carefully. The total upfront payment does not affect the total dollars a bidder may bid on any given license.

85. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a specific percentage of their current eligibility during each round of the auction.

86. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current round (*see* ''Bid Increments and Minimum Accepted Bids'' in Part IV.B.(iii)). The minimum required activity level is expressed as a percentage of the bidder's maximum bidding eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions (as set forth under ''Auction Stages'' in Part IV.A.iii and ''Stage Transitions'' in Part IV.A.iv), we adopt them for Auction No. 41.

iii. Auction Stages

87. In the *Auction No. 41 Comment Public Notice,* we proposed to conduct the auction in three stages and employ an activity rule. We further proposed that, in each round of Stage One, a bidder desiring to maintain its current eligibility would be required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. In each round of Stage Two, a bidder desiring to maintain its current eligibility would be required to be active on at least 90 percent of its current bidding eligibility. Finally, we proposed that a bidder in Stage Three, in order to maintain eligibility, would be required to be active on 98 percent of its current bidding eligibility. We received no comments on this proposal.

88. We adopt our proposals for the activity rules. Here are the activity levels for each stage of the auction. The FCC reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses that represent at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and valid bids during the current round) by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 90 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and valid bids during the current round) by ten-ninths (10/9).

Stage Three: During the third stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver

is used). In this stage, reduced eligibility for the next round will be calculated by multiplying the bidder's current activity (the sum of bidding units of the bidder's standing high bids and valid bids during the current round) by fifty-fortyninths ($^{50}/_{49}$).

Caution: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required minimum activity level by using the bidding system's bidding module.

89. Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, we adopt them for Auction No. 41.

iv. Stage Transitions

90. In the *Auction No. 41 Comment Public Notice,* we proposed that the auction would generally advance to the next stage (*i.e.,* from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is below 10 percent for three consecutive rounds of bidding in each Stage. We further proposed that the Bureau would retain the discretion to change stages unilaterally by announcement during the auction. This determination, we proposed, would be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We received no comments on this subject.

91. We adopt our proposal. Thus, the auction will start in Stage One and it will advance to the next stage (*i.e.,* from Stage One to Stage Two, and from Stage Two to Stage Three) when, in each of three consecutive rounds of bidding, the high bid has increased on 10 percent or less of the licenses being auctioned (as measured in bidding units). In addition, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We believe that these stage transition rules, having proven successful in prior auctions, are appropriate for use in Auction No. 41.

v. Activity Rule Waivers and Reducing Eligibility

92. In the *Auction No. 41 Comment Public Notice,* we proposed that each bidder in the auction would be provided five activity rule waivers. Bidders may use an activity rule waiver in any round during the course of the auction. We received no comment on this issue.

93. Based upon our experience in previous auctions, we adopt our proposal that each bidder be provided five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. We are satisfied that our practice of providing five waivers over the course of the auction provides a sufficient number of waivers and maximum flexibility to the bidders, while safeguarding the integrity of the auction.

94. The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any round where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

95. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in ''Auction Stages'' (*see* Part IV.A.iii). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

96. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding system) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver triggered during a round in which there are no new valid bids or withdrawals will not keep the auction open.

vi. Auction Stopping Rules

97. For Auction No. 41, the Bureau proposed to employ a simultaneous stopping rule. Under this rule, bidding will remain open on all licenses until bidding stops on every license. The auction will close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid. After the first such round, bidding closes simultaneously on all licenses.

98. The Bureau also proposed retaining discretion to implement a modified version of the simultaneous stopping rule. The modified version will close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder will not keep the auction open under this modified stopping rule.

99. The Bureau further proposed retaining the discretion to keep the auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if it has any left).

100. In addition, we proposed that the Bureau reserve the right to declare that the auction will end after a designated number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. We proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where

bidders will be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or adjusting the amount of the minimum bid increments for the licenses.

101. We received no comments on the subject, therefore, we adopt all of the proposals concerning the auction stopping rules. Auction No. 41 will begin under the simultaneous stopping rule and the Bureau will retain the discretion to invoke the other versions of the stopping rule. We believe that these stopping rules are most appropriate for Auction No. 41, because our experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder participation.

vii. Auction Delay, Suspension, or Cancellation

102. In the *Auction No. 41 Comment Public Notice,* we proposed that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair conduct of competitive bidding.

103. Because this approach has proven effective in resolving exigent circumstances in previous auctions, we adopt our proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

i. Round Structure

104. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. This public notice will be included in the registration mailings. The round structure for each bidding round contains a single bidding round followed by the release of the round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the public notice referenced.

105. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The FCC may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

106. *Background.* The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.,* because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

107. In the *Auction No. 41 Comment Public Notice,* the Bureau proposed to establish minimum opening bids for Auction No. 41 and to retain discretion to lower the minimum opening bids. Specifically, for Auction No. 41, the Bureau proposed the following license-by-license formula for calculating minimum opening bids:

$.00004 * kHz * License Area Population with a minimum of $1,000 per license.

In the alternative, the Bureau sought comment on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price. Moir & Hardman and Space Data addressed whether the Bureau should adopt its proposed formula for calculating minimum opening bids for Narrowband PCS. Both contend that the proposed minimum opening bids are excessively high and recommend that they be significantly reduced. No other comments or reply comments were received.

108. As in the case of the amount of upfront payments, the Bureau is persuaded by the comments that a downward revision to minimum opening bids is appropriate. Accordingly, the Bureau has lowered the amount of minimum opening bids, and they are now approximately one-half of the original proposal. The revised minimum opening bid figures were determined using the following formula:

$.00002 * kHz * License Area Population with a minimum of $1,000 per license.

The specific minimum opening bids for each license are set forth in Attachment A of the *Auction No. 41 Procedures Public Notice.*

109. The minimum opening bids that we adopt are reducible at the discretion of the Bureau. We emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.,* before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any requests to reduce the minimum opening bid on specific licenses.

iii. Bid Increments and Minimum Accepted Bids

110. In the *Auction No. 41 Comment Public Notice,* we proposed to use a smoothing methodology to calculate minimum acceptable bids. We further proposed to retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate. We received no comment on this issue.

111. We adopt our proposal for a smoothing formula. The smoothing methodology is designed to vary the increment for a given license between a maximum and minimum value based on the bidding activity on that license. This methodology allows the increments to be tailored to the activity level of a license, decreasing the time it takes for active licenses to reach their final value. The formula used to calculate this increment is included as Attachment G.

112. We adopt our proposal of initially setting the weighing factor at 0.5, the minimum percentage increment at 0.1 (10 percent of the license value), and the maximum at 0.2 (20 percent of the license value). The Bureau retains the discretion to change the minimum acceptable bids and bid increments if it determines that circumstance so dictate. The Bureau will do so by announcement in the Automated Auction System. Under its discretion, the Bureau may also implement an absolute dollar floor for the bid increment to further facilitate a timely close of the auction. The Bureau may also use its discretion to adjust the minimum bid increment without prior notice if circumstances warrant. The Bureau also retains the discretion to use alternate methodologies, such as a flat percentage increment for all licenses, for Auction No. 41 if circumstances warrant.

iv. High Bids

113. At the end of each round, the Automated Auction System determines the standing high bid for each license based on the gross dollar amounts of the bids received for each license.

114. In the case of tied high bids, an implementation of the Lecuyer pseudo-random generator will be used to determine the standing high bid. A random number will be assigned to each bid. The tie bid having the highest random number will become the standing high bid. As noted in the *Auction No. 41 Comment Public Notice,* we have adopted this method of breaking ties for this auction because, unlike prior auctions, bidders in Auction No. 41 will be able to bid via the Internet. Breaking ties by reference to the timing of the bids, as in prior auctions, is inappropriate in Auction No. 41 because bidders may access the Internet at widely varying speeds.

v. Bidding

115. During a bidding round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round.

116. Please note that all bidding will take place remotely either through the Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 41.

117. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (i) the licenses applied for on FCC Form 175 and (ii) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

118. The FCC Automated Auction System requires each bidder to be logged in during the bidding round using the bidder identification number provided in the registration materials, and the generated SecurID code. Bidders are strongly encouraged to print bid confirmations *after* they submit their bids.

119. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the Automated Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine acceptable bid amounts. The Automated Auction System also includes an import function that allows bidders to upload text files containing their bid information.

120. Once there is a standing high bid on a license, the Automated Auction System will calculate a minimum acceptable bid for that license for the following round. The difference between the minimum acceptable bid and the standing high bid for each license will define the *bid increment.* The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.,* the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

121. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts for licenses that have not yet received a bid are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded, and the minimum opening bid. Therefore, when the minimum percentage increment equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

122. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid. See Attachment G of the *Auction No. 41 Procedures Public Notice* for more detail on the calculation of the various bid amounts.

123. Finally, bidders are cautioned in selecting their bid amounts because, as explained in the following section, bidders who withdraw a standing high bid from a previous round, even if mistakenly or erroneously made, are subject to bid withdrawal payments.

vi. Bid Removal and Bid Withdrawal

124. In the *Auction No. 41 Comment Public Notice,* we proposed bid removal and bid withdrawal rules. With respect to bid withdrawals, we proposed limiting each bidder to withdrawals in no more than two rounds during the course of the auction. The two rounds in which withdrawals are utilized, we proposed, would be at the bidder's discretion. We received no comments on this issue.

125. *Procedures.* Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the ''remove bid'' function in the bidding system, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.,* a bid that is subsequently removed does not count toward the bidder's activity requirement. This procedure, about which we received no comments, will enhance bidder flexibility during the auction. Therefore, we adopt these procedures for Auction No. 41.

126. Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw standing high bids from previous rounds using the ''withdraw bid'' function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g).

127. In previous auctions, we have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While we continue to recognize the important role that bid withdrawals play in an auction, *i.e.,* reducing risk associated with efforts to secure various licenses in combination, we conclude that, for Auction No. 41, adoption of a limit on their use to two rounds is the most appropriate outcome. By doing so we believe we strike a reasonable compromise that will allow bidders to use withdrawals. Our decision on this issue is based upon our experience in prior auctions, particularly the PCS D, E and F block auctions, and 800 MHz SMR auction, and is in no way a reflection of our view regarding the likelihood of any speculation or ''gaming'' in this auction.

128. The Bureau will therefore limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals during the auction will still be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market. If a high bid is withdrawn, the minimum accepted bid in the next round will be the prior round's second highest bid price, which may be less than, or equal to, in the case of tie bids, the amount of the withdrawn bid. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid. The Commission will serve as a ''place holder'' on the license until a new acceptable bid is submitted on that license.

129. *Calculation.* Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the net high bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single license, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s). This policy allows bidders most efficiently to allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureau retains the discretion to scrutinize multiple bid withdrawals on a single license for evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

130. In the *Part 1 Fifth Report and Order,* the Commission modified § 1.2104(g)(1) of the rules regarding assessments of interim bid withdrawal payments. As amended, § 1.2104(g)(1) provides that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment. The *Part 1 Fifth Report and Order* provides specific examples showing application of the bid withdrawal payment rule.

vii. Round Results

131. In the *Auction No. 41 Comment Public Notice,* we proposed disclosing all information relating to the bids during Auction No. 41 after each round of bidding closes, including all bids and withdrawals placed in each round, the identity of the bidder placing each bid or withdrawal, and the net and gross amounts of each bid or withdrawal. We received no comments concerning this proposal. Accordingly, the Bureau adopts the proposal in the *Auction No. 41 Comment Public Notice.*

132. Bids placed during a round will not be published until the conclusion of that bidding period. After a round closes, the Bureau will post the results of the round for public access. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 41 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

133. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

ix. Maintaining the Accuracy of FCC Form 175 Information

134. As noted in Part II.H., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Filers must make these changes on-line, and submit a letter summarizing the changes to: Margaret Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission 445 12th Street, SW., Room 4–A760, Washington, DC 20554.

A separate copy of the letter should be mailed to Howard Davenport, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–A435, Washington, DC 20554. Questions about other changes should be directed to Howard Davenport at (202) 418–0660.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

135. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying winning bidders, down payments and any withdrawn bid payments due.

136. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its net winning bids (actual bids less any applicable small and very small business bidding credits). *See* 47 CFR 1.2107(b). In addition, by the same deadline all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in ''Bid Removal and Bid Withdrawal,'' Part IV.B.vi. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Long-Form Application

137. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) and required exhibits for each license won through Auction No. 41. Winning bidders that are small or very small businesses must include an exhibit demonstrating their eligibility for small and very small business bidding credits. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

C. Tribal Land Bidding Credit

138. A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally-recognized tribal lands that are unserved by any telecommunications carrier or that have a telephone service penetration rate equal to or below 70 percent is eligible to receive a tribal land bidding credit as set forth in 47 CFR 1.2107 and 1.2110(f). A tribal land bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

139. Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal land bidding credit after winning the auction when it files its long-form application (FCC Form 601). When filing the long-form application, the winning bidder will be required to advise the Commission whether it intends to seek a tribal land bidding credit, for each market won in the auction, by checking the designated box(es). After stating its intent to seek a tribal land bidding credit, the applicant will have 90 days from the close of the long-form filing window to amend its application to select the specific tribal lands to be served and provide the required tribal government certifications. Licensees receiving a tribal land bidding credit are subject to performance criteria as set forth in 47 CFR 1.2110(f).

140. For additional information on the tribal land bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rule making proceeding regarding tribal land bidding credits and related public notices. Relevant documents can be viewed on the Commission's web site by going to *http://www.fcc.gov/wtb/auctions* and clicking on *Information on Tribal Land Bidding Credits.*

D. Default and Disqualification

141. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.,* fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at their final bid. *See* 47 CFR 1.2109(b) and (c). In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant. *See* 47 CFR 1.2109(d).

E. Refund of Remaining Upfront Payment Balance

142. All applicants that submitted upfront payments but were not winning bidders for a license in Auction No. 41 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

143. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions and a Taxpayer Identification Number (TIN). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Michelle Bennett, 445 12th Street, SW., Room 1–C864, Washington, DC 20554.

144. Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418–2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Tim Dates or Gail Glasser at (202) 418–1995.

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions and Industry Analysis Division, WTB.

[FR Doc. 01–18581 Filed 7–24–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–01–31–B (Auction No. 31); DA 01–1546]

Auction of Licenses for the 747–762 and 777–792 MHz Bands (Auction No. 31) Is Postponed

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the postponement of the upcoming auction of licenses in the 747–762 and 777–792 MHz band (Auction No. 31), previously scheduled to begin on September 12, 2001. The postponement is necessary to allow for resolution of pending petitions for reconsideration and clarification of the Commission's Third Report and Order.

FOR FURTHER INFORMATION CONTACT: Howard Davenport or Bill Huber, Auctions Legal Branch at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released July 11, 2001 *(700 MHz Postponement Public Notice).* The complete text of the *700 MHz Postponement Public Notice* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 445 12th Street, SW, Room CY–B400, Washington, DC 20554, (202) 314–3070. The *700 MHz Postponement Public Notice* is also available on the Internet at the Commission's web site: *http://www.fcc.gov/wtb/documents.html.*

The auction of licenses in the 747–762 and 777–792 MHz bands (Auction No. 31), previously scheduled to begin on September 12, 2001, will be delayed pending Commission resolution of petitions for reconsideration and clarification of the Commission's Third Report and Order in WT Docket No. 99–168, CS Docket No. 98–120, and MM Docket No. 00–39. *See* Third Report and Order, 66 FR 10204 (February 14, 2001). Upon release of the Commission's order

acting on those petitions for reconsideration, the Wireless Telecommunications Bureau will release a public notice announcing key dates for Auction No. 31.

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions & Industry Analysis Division, Wireless Telecommunications Bureau.

[FR Doc. 01–18583 Filed 7–24–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 01–1561]

Low Power Television Auction No. 81—Mutually Exclusive Proposals—Settlement Window Extended to August 23, 2001

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document provides notice that the settlement window for proposals filed during the limited low power television/television translator/Class A television auction filing window has been extended to August 23, 2001.

DATES: Settlements must now be submitted by August 23, 2001.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released July 2, 2001. The complete text of the Public Notice, including attachment, is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20035, (202) 857–3800. It is also available on the Commission's web site at http://www.fcc.gov.

In this Public Notice, the Mass Media Bureau extends the settlement window for those proposals filed during the limited low power television, television translator, and Class A television auction filing window that are mutually exclusive. Parties now have until August 23, 2001, to file a settlement if they desire to avoid going to auction.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 01–18582 Filed 7–24–01; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

Notice of the Availability of the Final Environmental Impact Statement for a Proposed Department of Transportation Headquarters

AGENCY: General Services Administration, National Capital Region; Department of Transportation.

ACTION: Proposed lease acquisition of a new or renovated headquarters for the Department of Transportation in the Central Employment Area of Washington, DC.

SUMMARY: The General Services Administration (GSA) announces the availability of the Final Environmental Impact Statement (Final EIS) for the proposed lease acquisition of a new or renovated headquarters for the Department of Transportation (DOT) in the Central Employment Area (CEA) of Washington, DC.

Background Information

DOT seeks to update its facilities, maximize efficiency, and reorganize and consolidate its operations. To this end, GSA is currently conducting a competitive procurement of 1.35 million rentable square feet of new or renovated space under an operating lease for a term of fifteen years.

Consolidation in a new or renovated headquarters will produce significant operating efficiencies in support of DOT's mission.

The Government has conducted this procurement as a negotiated, best value source selection. The procurement process was developed with full integration of the NEPA process, incorporating NEPA compliance into the agency's decision-making framework. This has resulted in full public participation and submission of final proposals that address potential environmental impacts. The Government's evaluation of proposals considered an Offeror's ability and willingness to address impacts and implement proposed mitigation measures identified through the NEPA process, including public comments received on the Final EIS.

Final EIS Availability

Copies of the Final EIS will be available for review at the locations identified below. In addition, the Final EIS and other information regarding this project are available on the Internet at http://www.evolv.com/DOT.

The Final EIS may be reviewed at the following locations:

1. Department of Transportation, Dockets Room, PL–401, 400 7th Street, SW., Washington, DC 20590
2. Martin Luther King Library, 9th & G Streets, NW., Washington, DC
3. Public Affairs Office, Navy, Bldg. 200, 2nd Floor, Wing 1 North, Washington Navy Yard, Washington, DC

GSA encourages Federal, regional, state and local agencies, and interested individuals and groups, to take this opportunity to review the Final EIS and make written comments.

Project Information

Topics of environmental analysis presented in the Final EIS include short term impacts of construction and long-term impacts of site operations and maintenance on land use, historic resources, visual resources, physical and biological resources, public transportation, traffic and parking, public services and utilities, and socio-economic conditions. The environmental analysis also addresses cumulative impacts that would result from this and other development projects that have been completed recently, are currently under development, and are proposed within each study area.

Written comments on the Final EIS must be postmarked no later than August 27, 2001, to the following address: General Services Administration, Attn: Mr. John Simeon, Portfolio Development Division (WPC), 7th and D Streets, SW., Suite 2002, Washington, DC 20407.

FOR FURTHER INFORMATION CONTACT: For further information or to request a copy of the final EIS, please contact Mr. John Simeon, General Services Administration, (202) 260–5786.

Dated: July 18, 2001.

Anthony E. Costa,

Assistant Regional Administrator, National Capital Region, General Services Administration.

[FR Doc. 01–18477 Filed 7–24–01; 8:45 am]

BILLING CODE 6820–BR–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01154]

Expansion of Prevention, Care, and HIV/AIDS Surveillance Activities for Injection Drug Users With the Bangkok Metropolitan Administration, Bangkok, Thailand; 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 City Government of Bangkok, Thailand, Bangkok Metropolitan Administration(BMA) for the improvement and expansion of prevention, care and surveillance activities targeting HIV/AIDS and HIV/AIDS-related conditions among injection drug users (IDUs) in Bangkok, Thailand.

The purpose of this program is to improve and expand in Bangkok: (1) HIV transmission prevention capacity among IDUs. Specific prevention activities could include: (a) Strengthening HIV prevention counseling received by clients attending methadone maintenance centers; (b) developing the capacity of community-based organizations (CBOs) to do outreach, prevention counseling, and referral for IDU populations not enrolled in drug treatment programs, including incarcerated populations and youth detention centers; (c) conducting operational studies to assess the impact of current laws, pharmacy practices, and police practices on the availability and access to sterile injection equipment for IDUs and translate findings into policy documents and prevention strategies; and (d) providing a network for the routine programmatic introduction of AIDSVAX B/E if the current vaccine trial is found to be efficacious, and monitor HIV infection rates after the routine introduction of the vaccine. This network of BMA methadone detoxification clinics is also an ideal setting to provide (2) care and support services for IDUs living with HIV/AIDS (*e.g.*, psychosocial support, enhancing opportunistic infection prevention and treatment, and monitoring use of antiretroviral drugs), and to enhance (3) surveillance efforts, including laboratory-based surveillance activities (*e.g.*, STIs, tuberculosis [TB] and other opportunistic infections, and drug-resistant HIV strains), which will be accomplished through cooperation between CDC and the BMA. These collaborative activities could profoundly impact the scope and intensity of the implementation of the National AIDS Policy. Cooperative efforts could lead to significant improvements in the collection of critical data to support future action, a better understanding of the association between specific behaviors and HIV prevalence, improved and more responsive systems of care, and strengthened aspects of the public health infrastructure for IDUs. Since 1995, the CDC has had a strong collaboration with the Thai BMA to conduct research and related activities on HIV infection and AIDS among IDUs in order to improve understanding of the disease and provide a scientific basis for the development of public health actions in this population. The CDC seeks to broaden its mission with the BMA to include the LIFE Initiative activities outlined in this cooperative agreement request.

The U.S. Government seeks to reduce the impact of HIV/AIDS and related conditions in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development, especially for surveillance. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. Government agencies are already active. Thailand is one of these targeted countries.

To carry out its activities in these countries, CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic. CDC's program of technical assistance to Thailand focuses on several areas including strengthening surveillance and laboratory measures, expanding promising prevention and care strategies, supporting behavior change communication projects, promoting technology transfer, and other capacity building efforts.

B. Eligible Applicants

Assistance will be provided only to the BMA, Kingdom of Thailand. No other applications are solicited.

The BMA is the only appropriate and qualified organization to fulfill the requirements set forth in this announcement for the following reasons:

1. The BMA is directly responsible for the implementation, monitoring and evaluation of population-based HIV/AIDS prevention and care policies and services in Bangkok.

2. The BMA is uniquely positioned, in terms of city government authority, mandate and ability to oversee and safeguard public health, and to collect and analyze information and disseminate surveillance and health system performance reports related to the prevalence and incidence of HIV/AIDS, HIV/AIDS-related conditions and other health issues in Bangkok.

3. The BMA has in place in metropolitan Bangkok, the hospitals and clinic structures required to immediately engage in the activities listed in this announcement.

C. Availability of Funds

Approximately $100,000 is available in FY 2001, to fund this agreement. 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 five years. Annual funding estimates may change. Continuation awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Use of Funds

Funds received from this announcement may not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception nevirapine in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

No funds awarded under this announcement shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must

perform a substantial portion of the activities (including program management and operations and delivery of prevention services) for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

D. 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.''

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Dorimar Rosado, 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) 488–2782, E-mail: dpr7@cdc.gov.

For program technical assistance, contact: Jordan W. Tappero, MD, MPH, Director, Thailand-CDC Collaboration, Director, The HIV/AIDS Program, DMS 6 Building, Ministry of Public Health, Tivanon Road, Nonthaburi 11000, THAILAND, Telephone: (66 2) 591 8358, Fax: (66 2) 591 5443, Mobile: (66 1) 755 9011, E-mail: jwt0@cdc.gov.

Dated: July 19, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18462 Filed 7–24–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01143]

HIV/AIDS Surveillance, Prevention and Medical Support and Treatment in the Socialist Republic of Vietnam; 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 Vietnam Ministry of Health's (MOH) National AIDS Standing Bureau (NASB) for improvement, expansion and evaluation of HIV/AIDS and, as relevant, other emerging infections surveillance, prevention and medical support and treatment in Vietnam.

The United States Government (USG) seeks to reduce the impact of HIV/AIDS in specific countries with sub-Saharan Africa, Asia and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. To carry out this initiative, CDC has organized its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV prevention; (2) HIV care, support and treatment; and (3) capacity and infrastructure development, especially for HIV/AIDS surveillance activities.

Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. Government agencies are already active. Vietnam is one of these targeted countries.

As a key partner in the USG LIFE Initiative, CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemics in LIFE Initiative countries. In particular, CDC's mission in Vietnam is to strengthen and make more effective the HIV prevention and medical support and treatment efforts to prevent HIV infection and associated illness and death from AIDS. CDC is also planning to increase its support for assessment and research efforts in Vietnam for tuberculosis (TB), sexually transmitted infections (STI) and other emerging infections.

B. Eligible Applicants

Assistance will be provided only to the MOH, which will provide the funding to the NASB or other designated agency depending on the program goal (e.g., NITBRP, NIDV, NIHE, etc.). The MOH and its agencies are the only appropriate and qualified organizations to conduct a specific set of activities supportive of the CDC Global AIDS Program and its emerging diseases program in Vietnam because:

1. The MOH is uniquely positioned, in terms of legal authority and credibility among Vietnamese citizens, to collect crucial data on HIV/AIDS prevalence and incidence, as well as other health information, among Vietnamese citizens.

2. The MOH already has established mechanisms to access health information, enabling it to immediately become engaged in the activities listed in this announcement.

3. The purpose of this announcement is to build upon the existing framework of health information and activities that the MOH itself has collected or initiated.

4. The MOH has been mandated by the National Assembly of Vietnam to coordinate and implement activities necessary for the control of epidemics, including HIV/AIDS, TB, STI and other emerging infections.

C. Availability of Funds

Approximately $2,250,000 is available in 2001 to fund this agreement. Of the $2,250,000, approximately $2,000,000 will be for HIV/AIDS and approximately $250,000 for TB and emerging infections. 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 five years. Annual funding estimates may change. Continuation of awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Antiretroviral Drugs

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception nevirapine in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the

activities (including program management and operations and delivery of prevention services for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Needle Exchange

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. Where To Obtain Additional Information

This and other CDC announcements can found on the CDC home page internet address—http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

If you have any questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: (770)–488–2782, E-mail: dpr7@cdc.gov.

For program technical assistance, contact: Gary West, MPA, Deputy Director, Global AIDS Program, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mailstop E–41, Telephone: (404) 639–4268 E-mail: Gwest@cdc.gov

Dated: July 19, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18465 Filed 7–24–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01149]

Expansion of HIV/AIDS/STD Surveillance, Care, and Prevention Activities in the Republic of Zimbabwe; 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 Republic of Zimbabwe Ministry of Health and Child Welfare (MOHCW) for the improvement and expansion of surveillance, care, and prevention activities targeting HIV/AIDS and HIV/AIDS-related conditions in Zimbabwe.

The U.S. Government seeks to reduce the impact of HIV/AIDS and related conditions in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development, especially for surveillance. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. Government agencies are already active. Zimbabwe is one of these targeted countries.

To carry out its activities in these countries, CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic. CDC's program of technical assistance to Zimbabwe focuses on several areas, including strengthening surveillance and laboratory measures, scaling up promising prevention and care strategies, supporting behavior change communication projects, promoting technology transfer, and other capacity building efforts.

Zimbabwe is experiencing one of the world's most severe AIDS crises that looms as a disaster of unprecedented proportions. Zimbabwe has one of the world's highest HIV prevalence rates among adults, and the proportion of children orphaned by AIDS is expected to reach 35 percent by 2010.

Zimbabwe has taken many positive steps to address the AIDS epidemic. It was one of the first governments in the world to negotiate a large World Bank loan for AIDS prevention in 1992. The national response has generated many examples of creative programming and successful grassroots initiatives in the face of staggering adversity. In December 1999, the Government of Zimbabwe (GOZ) declared AIDS a national disaster, created a new ministerial-level, multi-sectoral National AIDS Council (NAC), announced a new National AIDS Policy and instituted an ''AIDS levy'' payroll tax to underwrite improved national AIDS prevention and care services.

However, despite these and others interventions, the prevalence of HIV infection appears to have increased substantially in Zimbabwe from 1997 to 2000, and the epidemic cannot yet be characterized as having stabilized. High prevalence rates among women 15–19 yrs of age suggests that recent infections continue to be high, including among youth. In addition, Zimbabwe is facing economic and political crises which compete for attention with and directly impact current responses to the AIDS epidemic.

Surveillance needs to be strengthened and expanded to include behavioral surveillance (especially among youth), and extended to other population groups such as young men, both in and out of school. HIV, STI and TB prevention and care efforts, including public health laboratory services, need to be urgently strengthened as a top national priority, and a strengthened system established for monitoring and evaluating those efforts and tracking progress toward control and reversal of the epidemic.

The purpose of this cooperative agreement is therefore to improve and expand HIV/AIDS surveillance, care, and prevention capacity and activities in Zimbabwe, which will be accomplished through cooperation between CDC and the MOHCW of Zimbabwe. These collaborative activities could profoundly impact the scope and intensity of the implementation of the National AIDS Policy. Cooperative efforts could lead to significant improvements in the collection of critical data to support future action, a better understanding of

the association between specific behaviors and HIV prevalence, improved and more responsive systems of care, and strengthened aspects of the public health infrastructure.

B. Eligible Applicants

Assistance will be provided only to the MOHCW of GOZ. No other applications are solicited.

The MOHCW is the only appropriate and qualified organization to fulfill the requirements set forth in this announcement because:

1. The MOHCW is uniquely positioned, in terms of constitutional authority, mandate and ability to oversee and safeguard public health, and to collect and analyze information and disseminate surveillance and health system performance reports related to the prevalence and incidence of HIV/AIDS, HIV/AIDS-related conditions and other health issues.

2. The MOHCW has in place the central, provincial and district-based structures required to immediately engage in the activities listed in this announcement.

3. The MOHCW is directly responsible for the implementation, monitoring and evaluation of population-based HIV/AIDS prevention and care policies and services.

C. Availability of Funds

Approximately $300,000 is available in FY 2001 to fund this agreement. It is expected that the award will begin on or about September 30, 2001 and will be made for a 12-month budget period within a project period of five years. Annual funding estimates may change. Continuation awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Direct Assistance

Direct provision of equipment and supplies (e.g., vehicles, computer hardware/software, specific consumables & supplies) may be requested as direct assistance in lieu of a portion of this financial assistance.

Use of Funds

Funds received from this announcement may not be used for the direct purchase of drugs for the treatment of active TB disease.

Antiretroviral Drugs

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection (with the exception of nevirapine in PMTCT cases and with prior written approval), occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested).

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

Indirect Costs: With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Needle Exchange

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

D. 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.''

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: (770) 488–2782, E-mail: dpr7@cdc.gov.

For program technical assistance, contact: Michael St. Louis, MD, Global AIDS Program (GAP), Zimbabwe Country Team, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), Zim-CDC AIDS Project Team 38 Samora Machel Avenue, 2nd Floor, Harare, Zimbabwe, Telephone: 263 4 796040, 796048, Fax: 263 4 796032, E-mail: stlouism@zimcdc.co.zw.

Dated: July 19, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18463 Filed 7–24–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Human Immunodeficiency Virus (HIV) Projects for Community-Based Organizations Targeting Young Men of Color Who Have Sex With Other Men (YMSM of Color), PA#01163

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP):Human Immunodeficiency Virus (HIV) Projects for Community-Based Organizations Targeting Young Men of Color Who Have Sex With Other Men (YMSM of Color), PA#01163, meeting.

Times and Date: 3 p.m.–6 p.m., August 9, 2001 (Open), 8 a.m.–5 p.m., August 10, 2001 (Closed), 8 a.m.–5 p.m., August 11, 2001 (Closed), 8 a.m.–5 p.m., August 12, 2001 (Closed).

Place: The Westin Atlanta North at Perimeter, 7 Concourse Parkway, Atlanta, GA 30328.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement 01163.

Contact Person for More Information: Elizabeth A. Wolfe, Prevention Support Office, National Center for HIV, STD, and TB Prevention, CDC, Corporate Square Office Park, 8 Corporate Square Boulevard, M/S E07, Atlanta, Georgia 30329, telephone 404/639–8025.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices

pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 19, 2001.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention CDC.

[FR Doc. 01–18464 Filed 7–24–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS–10026]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), 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: Reinstatement, without change, of a previously approved collection for which approval has expired;

Title of Information Collection: Survey of Medicare Beneficiaries Who Involuntarily Disenroll from their Health Plan;

Form No.: CMS–10026 (OMB# 0938–0817);

Use: In January 2002, many managed care plans are expected to withdraw from Medicare or reduce their service area. This will continue a trend that began in January 1999. CMS wishes to survey approximately 3,600 affected beneficiaries in early 2002 to determine how they were impacted by the withdrawals and whether they received sufficient information about options for replacing their managed care coverage.;

Frequency: Other: One-Time;

Affected Public: Individuals or Households;

Number of Respondents: 3,600;

Total Annual Responses: 3,600;

Total Annual Hours: 684.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS'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 CMS 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 CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards, Attention: Dawn Willinghan, CMS–10026, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 18, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–18551 Filed 7–24–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS–R–197]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the 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: Revision of a currently approved collection.

Title of Information Collection: Maximizing the Effective Use of Telemedicine: A Study of the Effects, Cost Effectiveness and Utilization Patterns of Consultations via Telemedicine.

Form No.: HCFA–R–197 (OMB# 0938–0705).

Use: This study deals with several issues of importance to CMS regarding the recent proliferation of Telemedicine programs. The primary goal of this study is to develop policy recommendations for Medicare concerning utilization review and payment methods for Telemedicine services. The major objective is to evaluate the use of interactive video Telemedicine consultation. Recommendations will be based on analysis of the use of Telemedicine for such medical consultation.

Frequency: Other: periodically.

Affected Public: Individuals or households, business or other for-profit, and not-for-profit institutions.

Number of Respondents: 1,823.

Total Annual Responses: 92,803.

Total Annual Hours: 415.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access CMS's web site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 10, 2001.

Julie Brown,

Acting, CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–18552 Filed 7–24–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0301]

Agency Information Collection Activities; Proposed Collection; Comment Request; Customer/Partner Service Surveys

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on voluntary customer satisfaction surveys to implement Executive Order 12862.

DATES: Submit written or electronic comments on the collection of information by September 24, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: 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: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Customer/Partner Service Surveys (OMB Control No. 0910–0360)—Extension

Under section 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393), FDA is authorized to conduct research and public information programs about regulated products and responsibilities of the agency. Executive Order 12862, entitled ''Setting Customer Service Standards,'' directs Federal agencies that ''provide significant services directly to the public'' to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' FDA is seeking OMB clearance to conduct a series of surveys to implement Executive Order 12862. Participation in the surveys is voluntary. This request covers customer/partner service surveys of regulated entities, such as: Food processors; cosmetic, drug, biologic and medical device manufacturers; consumers; and health professionals. The request also covers ''partner'' (State and local governments) customer service surveys.

FDA will use the information from these surveys to identify strengths and weaknesses in service to customers/partners and to make improvements. The surveys will measure timeliness, appropriateness and accuracy of information, courtesy, and problem resolution in the context of individual programs.

FDA projects 25 customer/partner service surveys per year, with a sample of between 50 and 6,000 customers each, requiring an average of 18 minutes for review/completion per survey. Some of these surveys will be repeats of earlier surveys, for purposes of monitoring customer/partner service and developing long-term data.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of Survey	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response
Mail/telephone/fax/web-based	20,000	1	.30	6,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: July 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–18427 Filed 7–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N– 0308]

Agency Information Collection Activities; Proposed Collection; Comment Request; Financial Disclosure by Clinical Investigators

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information requiring the sponsor of any drug, biologic, or device marketing application to certify to the absence of clinical investigators and/or disclose those financial interests as required, when covered clinical studies are submitted to FDA in support of product marketing.

DATES: Submit written or electronic comments on the collection of information by September 24, 2001.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: 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: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Financial Disclosure by Clinical Investigators (OMB No. 0910–0369)—Extension

Respondents are sponsors of marketing applications that contain clinical data from studies covered by the regulation. These sponsors represent pharmaceutical, biologic and medical device firms. The applicant will incur reporting costs in order to comply with the final rule. Applicants will be required to submit, for example, the complete list of clinical investigators for each covered study, not employed by the applicant and/or sponsor of the covered study, and either certify to the absence of certain financial arrangements with clinical investigators or disclose the nature of those arrangements to FDA and the steps taken by the applicant or sponsor to minimize the potential for bias. The clinical investigator will have to supply information regarding financial interests or payments held in the sponsor of the covered study. FDA has said that it has no preference as to how this information is collected from investigators and that sponsors/applicants have the flexibility to collect the information in the most efficient and least burdensome manner that will be effective.

FDA estimates that the total reporting costs of sponsors will be less than $450,000 annually. Costs could also occur after a marketing application is submitted if FDA determines that the financial interests of an investigator raise significant questions about the integrity of the data.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
54.4(a)(1) and (a)(2)	1,000	1	1,000	1	1,000
54.4(a)(3)	100	1	100	4	400
54.4	46,000	1	46,000	.10	4,600
Total					6,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The sponsors of covered studies will be required to maintain complete records of compensation agreements with any compensation paid to nonemployee clinical investigators, including information showing any financial interests held by the clinical investigator, for a time period of 2 years after the date of approval of the

application. This time is consistent with the current recordkeeping requirements for other information related to marketing applications for human drugs, biologics, and medical devices. Currently, sponsors of covered studies must maintain many records with regard to clinical investigators, including protocol agreements and investigator resumes or curriculum vitae. FDA estimates than an average of 15 minutes will be required for each recordkeeper to add this record to clinical investigators' file.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
54.6	1,000	1	1,000	.25	250

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: July 19, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–18479 Filed 7–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0175]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Survey of Single-Use Medical Device Reuse and Reprocessing in Hospitals

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 August 24, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Survey of Single-Use Medical Device Reuse and Reprocessing in Hospitals

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. The ''Survey of Single-Use Medical Device Reuse and Reprocessing in Hospitals'' will provide information on the frequency, nature, and scope of reuse and reprocessing of single-use medical devices by U.S. hospitals. The survey will provide statistically reliable estimates of the number of U.S. hospitals that are currently reusing and internally reprocessing single-use medical devices, whether they have registered with FDA, whether they are aware of the FDA educational materials on the reuse of single-use medical devices, and, if they are not currently internally reprocessing single-use devices, whether they have reused and reprocessed single-use medical devices in the past 3 years.

FDA will use these results to estimate the number of U.S. hospitals that reused and reprocessed single-use medical devices in the past, and those that currently reuse and internally reprocess single-use medical devices. This information will help FDA design its inspection plan, modify its education program, and evaluate the economic impact of current and future policies regarding single-use medical devices. The respondents to this collection of information will be U.S. hospitals.

In the **Federal Register** of April 30, 2001 (66 FR 21399), the agency requested comments on the proposed collection of information. No comments regarding paperwork were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN FOR TELEPHONE SURVEY[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
5,272	1	5,272	0.125	659

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

This is a one-time survey. The burden estimate for the telephone survey is based on a pretest of a preliminary survey instrument administered to nine hospitals. The number of respondents, total annual responses, and the total burden hours in this notice differs from the numbers in the notice published on April 30, 2001 (66 FR 21399). This is because the number of hospitals to be surveyed has changed based on more current estimates of the number of hospitals in the United States.

Dated: July 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–18426 Filed 7–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anesthetic and Life Support Drugs 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). The meeting will be open to the public.

Name of Committee: Anesthetic and Life Support Drugs 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 September 13 and 14, 2001, from 8 a.m. to 5 p.m.

Location: University of Maryland, Shady Grove Campus, multi-purpose room, Bldg. 9630, Gudelsky Dr., Rockville, MD.

Contact: Kimberly Littleton Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1091), Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12529. Please call the Information Line for up-to-date information on this meeting.

Agenda: On both days, the committee will discuss the medical use of opiate analgesics in various patient populations, including pediatric patients and patients with chronic pain of nonmalignant etiology, as well as the risk to benefit ratio of extending opiate treatment into these populations. It will also address concerns regarding the abuse potential, diversion and increasing incidence of addiction to opiate analgesics, especially to the modified release opiate analgesics.

Procedure: 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 August 17, 2001. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on September 13, 2001, and between approximately 9 a.m. and 10 a.m. on September 14, 2001. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 17, 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.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 19, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–18478 Filed 7–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastroenterology and Urology 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). The meeting will be open to the public.

Name of Committee: Gastroenterology and Urology 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 August 17, 2001, from 9:30 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 20B, 9200 Corporate Blvd., Rockville, MD.

Contact: Jeffrey W. Cooper, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1220, ext. 121, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12523. 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 device for the treatment of fecal incontinence. Background information and questions for the committee will be available to the public on August 16, 2001, on the Internet at http://www.fda.gov/cdrh/panelmtg.html.

Procedure: 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 August 9, 2001. Oral presentations from the public will be scheduled between approximately 10 a.m. and 10:30 a.m., and between approximately 3:30 p.m. and 4 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 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.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 19, 2001.

Linda A Suydam,

Senior Associate Commissioner for Policy.

[FR Doc. 01–18425 Filed 7–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0281]

Medical Devices; A Pilot Program to Evaluate a Proposed Globally Harmonized Alternative for Premarket Procedures; Draft Guidance for Industry and FDA Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''A Pilot Program to Evaluate a Proposed Globally Harmonized Alternative for Premarket Procedures.'' This draft guidance is intended to assist the medical device industry and FDA staff in implementing a pilot premarket review program that may reduce some of the burden on manufacturers associated with current conflicting format and content requirements in different countries. The proposed pilot program will evaluate the utility of two documents created by the Global Harmonization Task Force (GHTF), Study Group 1 (SG1), entitled ''Summary Technical Documentation for Demonstrating Conformity to the Essential Principles of Safety and Performance of Medical Devices (STED)'' and ''Essential Principles of Safety and Performance of Medical Devices'' (Essential Principles). The GHTF is a voluntary group of representatives from national medical device regulatory authorities and the regulated industry. This guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments concerning this draft

guidance and the related GHTF documents by September 24, 2001.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled ''A Pilot Program to Evaluate a Proposed Globally Harmonized Alternative for Premarket Procedures'' and related GHTF documents to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written or electronic comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Timothy A. Ulatowski, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8879.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is conducting a pilot premarket review program and is soliciting participation from the medical device industry. The pilot program is intended to evaluate the utility of a draft document that was prepared by the GHTF, SG1, to help harmonize the different requirements for premarket submissions in various countries. The GHTF is a voluntary group of representatives from national medical device regulatory authorities and the regulated industry. The purpose of the GHTF is to: (1) Encourage convergence in regulatory practices relating to ensuring the safety, effectiveness/performance, and quality of medical devices; (2) promote technological innovation; and (3) facilitate international trade. The GHTF Web site at: http://www.ghtf.org describes its organization, goals, and procedures. The GHTF draft document describes an internationally harmonized format and content for premarket submissions, e.g., premarket approval applications (PMAs) and 510(k) submissions, based on conformity to the Essential Principles document. The Essential Principles are a GHTF-derived list of both general and specific safety and performance recommendations for medical devices.

The announcement of the pilot premarket review program consists of the FDA draft guidance, which is the subject of this notice, and three related documents for comment appended to the FDA draft guidance: (1) A draft letter to the global medical device industry announcing the pilot program; (2) the draft STED document created by GHTF, SG1; and (3) the GHTF final document entitled ''Essential Principles of Safety and Performance of Medical Devices.''

The draft guidance document is intended to assist the medical device industry in completing a submission to FDA that uses the draft STED format and is also in accordance with U. S. requirements. The announcement letter describes specifics regarding the proposed pilot premarket program. The Essential Principles document is referenced in the draft STED document.

Four of the founding members of the GHTF are participating in the pilot program. They include the United States, Canada, Australia, and the European Union. Each of the participants will provide specific directions for implementing the pilot program within its jurisdiction.

The GHTF wants to assess the international utility of the draft STED document. Therefore, SG1 of the GHTF encourages manufacturers to prepare and submit, if submission is required, STEDs for the same device to as many of the four participating GHTF member countries as possible. SG1 also encourages manufacturers to try the draft STED format for different classes of devices that are candidates for the pilot program.

FDA intends to process premarket submissions in the draft GHTF harmonized format within statutory time limits and with review times comparable to other submissions for similar products. There will be no expedited review of submissions, unless the device merits such a process under current policies.

FDA plans to conduct the pilot program for 1 year. The pilot program will begin on the date of publication of the final FDA guidance document. FDA will assess how the pilot is proceeding during its course and may choose to decline receipt of additional submissions using the draft STED format in order to assess the initial experiences. At the end of the pilot, FDA and other GHTF participants will analyze the outcome to determine whether the draft STED document is a viable alternative to current premarket submission procedures, and if the program should be continued or expanded. FDA will post on its Web site a report of the outcome of the pilot program.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on one possible way to evaluate and apply GHTF recommendations related to premaket submissions to FDA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statutes and regulations.

The agency has adopted good guidance practices (GGPs), and published the final rule, which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000). This draft guidance document announcing the pilot is issued as a level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive a copy of the draft guidance entitled ''A Pilot Program to Evaluate a Proposed Globally Harmonized Alternative for Premarket Procedures'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1347) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to Dockets Management Branch (address above) written or electronic comments regarding this draft guidance by September 24, 2001. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 13, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 01–18480 Filed 7–24–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–10024]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection; *Title of Information Collection:* Development of Survey Instrument for Special Populations; *Form No.:* HCFA–10024 (OMB# 0938–NEW); *Use:* Development of Survey Instrument for Special Populations; *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 2,160; *Total Annual Responses:* 2,160; *Total Annual Hours:* 498.

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@hca.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Alison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 27, 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. 01–18553 Filed 7–24–01; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995: Proposed Project: U.S. Component of the 2001/2002 World Health Organization Study of Health Behavior in School Children (WHO–HBSC): New

The Office of Data and Information Management (ODIM), Maternal and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), will participate on behalf of the United States in the 2001/2002 WHO Study of Health Behavior in School Children. The information proposed for collection will be used by MCHB, HRSA, and the National Institutes of Health (NIH) to increase understanding of adolescent health to improve the quality of health programs and services. This cross-national research study will collect survey data to study adolescent health status and behaviors in relation to their social and supportive environment. Types of data will include measures of physical activity, body size, nutrition, social inequality, diversity, injury, violence, and perceptions of peers, school, and family as a supportive environment.

The estimated response burden is as follows:

Survey	Number of respondents	Responses per respondent	Hours per response	Total burden hour
Students	17,172	1	.75	12,879
Administrator	755	1	.25	189
School Staff	744	1	.5	372
Survey	18,671			13,440

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 18, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–18481 Filed 7–24–01; 8:45 am]

BILLING CODE 4165–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); Request for Comments on Substances Nominated to the National Toxicology Program (NTP) for Toxicological Studies and on the Testing Recommendations Made by the NTP Interagency Committee for Chemical Evaluation and Coordination

SUMMARY: The National Toxicology Program (NTP) continuously solicits and accepts nominations for toxicological studies to be undertaken by the Program. Nominations of substances of potential human health concern are received from Federal agencies, the public, and other interested parties. These nominations undergo several levels of review before selections for testing are made and toxicological studies are designed and implemented. The NTP Interagency Committee for Chemical Evaluation and Coordination (ICCEC) serves as the first level of review for NTP nominations. At the 8 May 2001 ICCEC meeting, 13 new nominations were reviewed and testing recommendations were made. To inform the public and to obtain input for consideration when selecting chemicals for toxicological evaluation, the NTP routinely seeks public comment on the nominated substances and the ICCEC's testing recommendations. This announcement (1) provides brief background information regarding the substances nominated to NTP for study, (2) presents the ICCEC's testing recommendations from its 8 May 2001 meeting, (3) solicits public comment on the nominations and recommendations, and (4) requests the submission of additional relevant information for consideration by the NTP in its continued evaluation of these nominations.

Background

The NTP actively seeks to identify and select for study chemicals and other agents for which sufficient information is not available to adequately evaluate potential human health hazards. The NTP accomplishes this goal through a formal open chemical nomination and selection process. Substances selected for study generally fall into two broad overlapping categories: (1) Those substances of greatest concern for public or occupational health based on the extent of human exposure and/or suspicion of toxicity; and (2) substances for which toxicological data gaps exist and additional studies would aid in assessing potential human health risks, e.g. by facilitating cross-species extrapolation or evaluating dose-response relationships. Particular assistance is also sought for the nomination of studies that permit the testing of hypotheses to enhance the predictive ability of future NTP studies, address mechanisms of toxicity, or fill significant gaps in the knowledge of the toxicity of classes of chemicals. Substances may be studied for a variety of health-related effects, including but not limited to reproductive and developmental toxicity, genotoxicity, immunotoxicity, neurotoxicity, metabolism and disposition, and carcinogenicity. In evaluating and selecting nominated substances, the NTP also considers legislative mandates that require responsible private sector commercial organizations to evaluate their products for health and environmental effects. The possible human health consequences of anticipated or known human exposure, however, remain the over-riding factor in the NTP's decision to study a particular chemical or agent.

The review and selection of substances nominated for study is a multi-step process. A broad range of concerns are addressed during this process through the participation of representatives from Federal agencies, the NTP Board of Scientific Counselors—an external scientific advisory body, the NTP Executive Committee—the NTP Federal interagency policy body, and a public comment period. This process is described in further detail in a 2 March 2000 **Federal Register** announcement (Volume 65, Number 42, pages 11329–11331). This multi-step evaluative process provides the NTP direction and guidance to ensure that it's testing program addresses toxicological concerns relative to all areas of public health, and furthermore, that there is balance among the types of substances selected for study (e.g., industrial chemicals, consumer products, therapeutic agents, etc.). As such, it should be recognized that for any given committee review, the new testing nominations under consideration do not necessarily reflect the overall balance of substances historically or currently being evaluated by NTP in it's testing program. For further information on NTP studies (previous or in progress) visit the NTP web site at *http://ntp-server.niehs.nih.gov.*

Nominated Substances and Interagency Review

The ICCEC is composed of representatives from the Agency for Toxic Substances and Disease Registry, Consumer Product Safety Commission, Department of Defense, Environmental Protection Agency, Food and Drug Administration's National Center for Toxicological Research, National Cancer Institute, National Institute of Environmental Health Sciences, National Institute for Occupational Safety and Health, National Library of Medicine, and the Occupational Safety and Health Administration. The ICCEC meets once or twice annually to evaluate groups of new nominations and to make testing recommendations with respect to both specific types of studies and testing priorities. At its meeting on 8 May 2001, the ICCEC reviewed 13 new nominations for NTP studies. For eight of these nominations, one or more types of testing was recommended, and for three nominations, no testing was recommended at this time. A testing recommendation for two nominations was deferred pending receipt of (1) additional information or data from the nominator or other organizations on related studies completed, anticipated or in progress, or (2) additional information on production, human exposure, use patterns, or regulatory needs. The nominated substances with CAS numbers, nomination source, nomination rationale, specific study recommendations, and other information are given in the attached tables.

Request for Public Comment

Interested parties are invited to submit comments or supplementary information on the nominated substances and recommendations identified in the attached tables. The NTP would welcome receiving toxicology and carcinogenesis information from completed, ongoing, or planned studies, as well as information on current production levels, use patterns, human exposure, environmental occurrence, or public health concerns for any of the nominated substances. Comments or information should be sent to Dr. Scott Masten at the address given below through September 24, 2001. Persons responding to this request are asked to include their name, affiliation, mailing address, phone, fax, e-mail address and sponsoring organization (if any) with

the submission. An electronic copy of this announcement as well as further information on the NTP and the NTP Chemical Nomination and Selection Process can be accessed through the NTP web site: *http://ntp-server.niehs.nih.gov.*

Contact may be made by mail to Dr. Scott Masten, Office of Chemical Nomination and Selection, NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709; by telephone at (919) 541–5710; by FAX at (919) 558–7067; or by email to masten@niehs.nih.gov.

Dated: June 14, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

Substances Nominated to the NTP for Toxicological Studies and Testing Recommendations Made by the ICCEC on 8 May 2001

TABLE 1.—SUBSTANCES RECOMMENDED FOR TESTING

Substance [CAS No.]	Nominated by	Nomination rationale; other information	ICCEC recommendations for toxicological studies
Bladderwrack [68917–51–1] [84696–13–9]	National Cancer Institute	Significant human exposure through use as a dietary supplement; safety concern due to potential thyroid stimulation; limited available toxicity information.	—Chemical characterization (iodine content). —Subchronic toxicity testing with evaluation of reproductive parameters.
Cylindrospermopsin [14345–90–8]	National Institute of Environmental Health Sciences.	Cyanobacterial toxin with potential for widespread human exposure through drinking water; high acute toxicity; limited available toxicity information.	—Complete toxicological characterization including chronic toxicity and carcinogenicity testing.
Epigallocatechin-3-gallate [989–51–5].	National Cancer Institute	Major polyphenol in green tea and green tea extract dietary supplements; potential chemopreventive agent; limited available toxicity information.	—Genotoxicity testing. —Subchronic toxicity testing. —Consider testing green tea extract.
2-Ethylhexyl-p-dimethylaminobenzoic acid [21245–02–3].	Private Individual	High production volume chemical with industrial and consumer (sunscreen) uses; evidence for phototoxicity and testicular toxicity; limited available toxicity information.	—Subchronic toxicity and developmental and reproductive toxicity testing by the dermal route of exposure. —Phototoxicity and photocarcinogenicity testing.
Grape seed and pine bark extracts	National Cancer Institute	Significant human exposure through use as a dietary supplement; limited available toxicity information.	—Genotoxicity testing. —Subchronic toxicity testing. —Developmental and reproductive toxicity testing. —Select a standardized commercial pine bark extract for study.
Metalworking fluids	National Institute for Occupational Safety and Health.	High production volume; large number of occupationally-exposed workers; lack of carcinogenicity and chronic toxicity data.	—In vitro, short-term in vivo and subchronic toxicity studies aimed at evaluating toxicity and carcinogenicity potential of multiple commercial formulations. —The ICCEC will make recommendations regarding further testing after reviewing the results of NTP preliminary studies.
Methyl tetrahydrofuran [96–47–9]	National Cancer Institute	Increasing use in alternative fuels; suspicion of toxicity and carcinogenicity based on structure; limited available toxicity information.	—Genotoxicity testing —Short-term toxicity testing. —Consider dermal and inhalation routes of exposure.
Polybrominated diphenyl ethers .... Pentabromodiphenyl ether (technical) [32534–81–9] Octabromodiphenyl ether (technical) [32536–52–0] 2,2',4,4'-Tetrabromodiphenyl ether [5436–43–1] 2,2',4,4',5-Pentabromodiphenyl ether [60348–60–9] 2,2',4,4',5,5'-Hexabromodiphenyl ether [68631–49–2]	Private Individuals, California Environmental Protection Agency.	High production volume flame retardants; widespread human exposure occupationally and as environmental contaminants; persistent and bioaccumulative; evidence for toxicity but significant knowledge gaps remain.	—Subchronic toxicity, developmental neurotoxicity and chronic toxicity testing of selected individual congeners —No testing of technical mixtures.

TABLE 2.—SUBSTANCES FOR WHICH NO TESTING IS RECOMMENDED AT THIS TIME

Substance [CAS No.]	Nominated by	Nominated for	Nomination rationale; other information	ICCEC rationale for not recommending toxicological studies
Apigenin [520–36–5]	National Cancer Institute ..	—Genotoxicity testing ..... —Developmental toxicity testing.	Naturally occurring flavonoid with potential oxidant and estrogenic activity; lack of toxicity information.	Insufficient toxicity and exposure potential.
Dibenzofuran [132–64–9] ..	National Cancer Institute ..	—Genotoxicity testing ..... —Carcinogenicity testing.	Widespread human exposure as an environmental contaminant; potential for carcinogenicity; lack of toxicity information.	Low commercial production volume; low potential for human exposure.
Diphenolic acid [126–00–1]	National Cancer Institute ..	—Genotoxicity testing ..... —Subchronic toxicity testing.	Industrial chemical potential for increasing use; structurally related bisphenol A; lack of toxicity information.	Low commercial production volume; low potential for human exposure.

TABLE 3.—SUBSTANCES FOR WHICH A TESTING RECOMMENDATION IS DEFERRED PENDING RECEIPT AND CONSIDERATION OF ADDITIONAL INFORMATION

Substance [CAS No.]	Nominated by	Nominated for	Nomination rationale; other Information	Additional information needed
n-Butyl bromide [109–65–9].	National Cancer Institute ..	—Subchronic toxicity testing. —Reproductive toxicity testing.	Industrial chemical with significant production volume and human exposure potential; mutagenic; potential for carcinogenicity; lack of toxicity information.	Manufacturers' voluntary testing plans.
Methyl soyate [67784–80–9].	National Cancer Institute ..	—Genotoxicity testing ..... —Subchronic toxicity testing by the dermal route of exposure.	Increasing production volume as an alternative fuel (biodiesel); lack of toxicity information.	Toxicity data development plans through existing or future regulatory programs.

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BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4649–N–16]

Notice of Proposed Information Collection for Public Comment; Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

AGENCY: Office of the Assistant Secretary for Community Planning and Development (HUD).

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 24, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sheila Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 7232, Washington, DC 20410–7000.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Community Viability, Department of Housing and Urban Development, Room 7240, 451 Seventh Street, SW., Washington, DC 20410–7000. For telephone communication, contact Walter Prybyla, Deputy Director for Policy, Environmental Review Division, (202) 708–1201 x4466 or e-mail: *Walter_Prybyla@hud.gov.* This phone number is not toll-free. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; (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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Environmental Review Procedures for Entities

Assuming HUD Environmental Responsibilities.

OMB Control Number, if applicable: 2506–0087.

Description of the need for the information and proposed use: The purpose of this information collection is to document regulatory compliance with the National Environmental Policy Act (NEPA) and related environmental statutes by recipients of HUD financial assistance who are required to assume HUD's environmental responsibilities and/or who are required to submit requests for release of funds and certify full compliance with NEPA and the related statutes using the procedures identified in 24 CFR part 58. Recipients must also maintain a public record of each project's compliance. Recipients establish and maintain sufficient records to enable the Secretary of HUD to determine whether the requirements of 24 CFR part 58 have been met. The records serve to allow the use of grant funds or financial assistance already awarded under 24 CFR part 58.

Agency form numbers, if applicable: Form HUD 7015.15, ''Request for the Release of Funds and Certifications.''

Members of affected public: Primary State, Local or Tribal Governments. Others: Public Housing Agencies, and Private Non- and For-Profit Entities.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Annual reporting and recordkeeping hour burden estimate is a total of 13,860 hours. Estimates are 18,785 respondents, 1 frequency of response, and 0.6 hours per response (regulatory references are §§ 58.1 and 58.71 for form HUD–7015.15).

Status of the proposed information collection: An emergency extension to September 30, 2001 was approved for the previously approved collection that expired on June 30.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 18, 2001.

Roy A. Bernardi,

Assistant Secretary for Community Planning and Development.

[FR Doc. 01–18444 Filed 7–24–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–50]

Notice of Submission of Proposed Information Collection to OMB Schedule of Pooled Mortgages

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 24, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Schedule of Pooled Mortgages.

OMB Approval Number: 2503–0010.

Form Numbers: 11706.

Description of the Need for the Information and its Proposed Use: This information collection identifies and controls the mortgages that collaterize the designed MBS pools or loan packages. It also provides a certification from the document custodian that certain required mortgage documents are being held by the document custodian on behalf of Ginnie Mae. This information is necessary to assure GNMA's interest in the pooled mortgages in the event of a default.

Respondents: Business or other for profit, Federal government.

Frequency of Submission: On occasion.

Reporting burden	Number of respondents	×	Frequency of response	×	Hours per reponse	=	Burden hours
	650		49		.25		31,540

Total Estimated Burden Hours: 31,540.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 17, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–18443 Filed 7–24–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4558–N–06]

Mortgagee Review Board; Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with Section 202(c) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: Phillip A. Murray, Director, Office of Lender Activities and Program Compliance, Room B–133–3214 Plaza, 451 7th Street, SW., Washington, DC 20410, telephone: (202) 708–1515. (This is not a toll-free number.) A Telecommunications Device for Hearing and Speech-Individuals (TTY) is available at 1–800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by Section 142 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235, approved December 15, 1989), requires that HUD publish a description of and the cause for administrative actions against a HUD-approved mortgagee by the Department's Mortgagee Review Board. In compliance with the requirements of Section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from April 1, 2000 through March 31, 2001.

1. Title I Lenders and Title II Mortgagees That Failed To Comply With HUD/FHA Requirements for the Submission of an Audited Annual Financial Statement and/or Payment of the Annual Recertification Fee

Action: Withdrawal of HUD/FHA Title I lender approval and Title II mortgagee approval.

Cause: Failure to submit to the Department the required annual audited financial statement, an acceptable annual audited financial statement, and/or remit the required annual recertification fee.

TITLE 1 LENDERS AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001

Name	City	State
Abn Amro Mortgage Group Inc	Troy	MI
Advanced Mortgage Investment Co Inc	Miami	FL
Affiliated Mortgage Service Inc	Rancho Cucamonga	CA
Affordable Mortgage Inc	Phoenix	AZ
Ahfund Inc	St. Petersburg	FL
AKT Mortgage Group Inc	Anaheim Hills	CA
All American Mortgage	Naperville	IL
All American Mortgage Inc	Seattle	WA
All-America Mortgage Corp	Burr Ridge	IL
Allen Mortgage Corporation	Sandy	UT
Alliance Mortgage Corporation	Villa Park	IL
Allstar Loan Co	Irving	CA
Allstate Financial Co Inc	Artesia	CA
Alta Loma Financial Corporation	Rancho Cucamonga	CA
Altoona Federal Savings and Ln	Altoona	PA
Alwayz Mortgage Services Inc	Schaumburg	IL
American Advantage Mortgage	Edina	MN
American Continental Funding Corp	Whittier	CA
American Diversified Funding Inc	Temecula	CA
American Home Loans Express	Downey	CA
American Mortgage Securities Inc	Clearwater	FL
Americapital Funding Corp	Birmingham	AL
America's Senior Financial Services Inc	Miami Lakes	FL
Amerifed Mortgage Corporation	Minnetonka	MN
Amerifirst Mortgage Group Inc	Fairlawn	OH
Amerus Life Insurance Co	Des Moines	IA
Amfirst Bank NA	McCook	NE
Anchor Mortgage Corporation	Chicago	IL
Annwin Inc	Huntington Beach	CA
Apex Mortgage Inc	Dallas	TX
Arizona Family Mortgage	Phoenix	AZ
Assurance Mortgage Corporation	Orlando	FL
Atlantic Vanguard Mortgage	Altamonte Springs	FL
ATO Financial Inc	Fremont	CA
Austin Funding Com Corporation	Austin	TX
Avstar Mortgage Corporation	Blue Bell	PA
Baker Boyer National Bank	Walla Walla	WA
Bank of New York	New York City	NY
Bank of South Dakota	Watertown	SD
Bankers Investment Group	Lake Forest	CA
Bankfirst Financial Services	Macon	MS
Banking Mortgage Srvs BMS Corp	Coral Gables	FL
Best Mortgage Inc	Gladstone	MO
Best MTG Corporation	Walnut	CA
Boatmen's National Bank NW IA	Spencer	IA
Bright Financial Corp	Walnut	CA
Brookside Mortgage Inc	Los Angeles	CA
Cal Coast Mortgage Corporation	San Diego	CA
California Lending Group	Irvine	CA
Calmco Servicing LP	Austin	TX
Capital Bank	Houston	TX

TITLE 1 LENDERS AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Capital Plus Financial	San Diego	CA
Cardinal Financial Company	Trevose	PA
Casa Americana Mortgage Inc	Arcadia	CA
Casa Mortgage Inc	Encino	CA
Cashnet Financial Group Inc	Plano	TX
CB Towne Center Financial	Cerritos	CA
Central Park Capital LP	Atlanta	GA
CF Financial	Lodi	CA
Champion Credit Corporation	San Diego	CA
Channel Islands National Bank	Oxnard	CA
Chappelow Mortgage Co Inc	Indianapolis	IN
Chatham Savings Bank FSB	Chatham	NJ
CHE Management Inc	Cerritos	CA
Cherry Burrell Employees C U	Cedar Rapids	IA
Chess Financial Services Inc	Camp Springs	MD
Citizens Bank of Western Indiana	Terre Haute	IN
Citizens First Mortgage Co	Winter Park	FL
Citizens Mortgage Corp	Fairfax	VA
City Holding Company	Charleston	WV
City Mortgage Corporation	Pittsburgh	PA
City National Bank and Trust	Gloversville	NY
Cityscape Corporation	Elmsford	NY
CMAL Inc	Tampa	FL
CMS Financial LLP	Camp Springs	MD
Coast Partners Investors Corp	San Francisco	CA
Coast Partners Lending Corporation	San Francisco	CA
Colonial National Bancorp	Anaheim	CA
Combustion Federal Credit UN	Chattanooga	TN
Commander Financial Corp	Dallas	TX
Commercial State Bank	Wagner	SD
Commonwealth Capital Mortgage Corp	Birmingham	AL
Community Bank Cleveland	Saint Peter	MN
Community Banks NA	Millersburg	PA
Community First State Bank	Alliance	NE
Community Mortgage Corporation	Cordova	TN
Community National MTG Corp	Ponte Vedra Beach	FL
Consolidated Funding Corp	Winter Park	FL
Consolidated Home Loans	Oceanside	CA
Consumer Mortgage Corporation	Brentwood	TN
Continental Pacific Capital and Financia	Tarzana	CA
Coppertree Mortgage and Financial Inc	Mesa	AZ
County Savings Bank	Columbus	OH
Creative Mortgage and Equity Corp	Calumet City	IL
Custom Home Mortgage LLC	Gilbert	AZ
CVT Properties INC DBA Prime Financial	Coata Mesa	CA
CW Financial Inc	Dana Point	CA
D and D Funding Inc	Los Angeles	CA
Dan Cavallo Inc	Riverside	CA
Delanco Federal Savings Bank	Delanco	NJ
Discount Mortgage Inc	Pearl	MS
Dynamic Mortgage Financial Corp	Garden Grove	CA
Eight Hundred Real Key	Chino	CA
Eldorado Bank	Sacramento	CA
Emmco The Mortgage Service Station	Lexington	SC
E–Mortgage Inc	York	PA
ENM Mortgage Inc	Downey	CA
Enterprise Mortgage Corp	Virginia Beach	VA
Equity Income	Glendale	CA
Equity Mortgage Company	Slidell	LA
Evergreen Bank NA	Glen Falls	NY
Excmont Corporation	San Jose	CA
F and M Bank	Fennimore	WI
F and M Bank	Omro	WI
F and M Bank-Northeast	Pulaski	WI
Fairway Employees Credit Union	Northfield	MN
Faith Financial Services	Woodland Hills	CA
Family Home Mortgage Corp	Spokane	WA
Farmers And Merchants Bank	Tomah	WI
FCMC Inc	Boulder	CO
Federal Guaranty Mortgage Co Inc	Coral Gables	FL
Fidelity Union Mortgage Corp C	Christiansted	VI

TITLE 1 LENDERS AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Fifth Third Bank Indiana	St Joseph	MI
First American Capital Mortgage Corp	Longwood	FL
First Atlantic Mortgage Corporation	Richmond	VA
First Bancorp Mortgage Corp	Yorktown	VA
First Bank Florida	West Palm Beach	FL
First Bank of Liberal	Liberal	KS
First Bank of the Americas	Chicago	IL
First Capital Group Inc	Miami	FL
First Colonial Mortgage Inc	Sherman	TX
First Equity Lenders Inc	West Palm Beach	FL
First Federal Savings Bank	New Castle	PA
First Heritage Financial Corporation	Denver	CO
First Home Acceptance MTG Corp	San Diego	CA
First Keystone Mortgage Inc	Kimberton	PA
First Mortgage Corporation	Tempe	AZ
First National Bank	Florence	AL
First National Bank	Hawley	MN
First National Bank	Mahnomen	MN
First National Bank	Gallatin	MO
First National Bank	Philip	SD
First National Bank	Darlington	WI
First National Bank And TR Vinita	Vinita	OK
First National Bank Fairmount	Fairmount	IL
First National Bank Manatee	Brackenton	FL
First National Bank River FLS	River Falls	WI
First National Bank Yuma	Yuma	CO
First National Funding Group	West Covina	CA
First National Security Corporation	Beaumont	TX
First Northern Bank of Dixon	Davis	CA
First Republic Mortgage	Santa Ana	CA
First Sierra Mortgage Inc	Sacramento	CA
First State Bank	Rush City	MN
First Virginia Bank	Grafton	VA
First West Realty Ser Corp	Arroyo Grande	CA
First Western Bank NA	New Castle	PA
First Western Mortgage Co of Amer Inc	Englewood	CO
Firstline Funding Inc	Irvine	CA
Flagship Capital Services Corp	Sacramento	CA
Florida Preferred Mortgage Inc	North Miami Beach	FL
Foothill Financial Services Inc	Tustin	CA
Forest Kraft Fed Credit Union	West Monroe	LA
Forum Express Home Loans Inc	Laguna Hills	CA
Fox Cities Bank FSB	Oshkosh	WI
Freeport Financial Group Inc	Westlake Village	CA
Frestan Financial Holding Corp	Phoenix	AZ
Friendly Hills Mortgage Corp	Whittier	CA
Frontier Funding Corp	Los Angeles	CA
Garfield Mortgage Corp	Glen Ellyn	IL
General Mortgage Acceptance Corp	Orange	CA
GFC Corporation	Tustin	CA
Girard National Bank	Girard	KS
Glacier Hills Credit Union	West Bend	WI
Goldpoint Mortgage Bankers Inc	Great Neck	NY
Goodrich Mortgage Inc	Newport Beach	CA
Great American Capital Corp	Costa Mesa	CA
Great Country Mortgage Bankers Corp	Miami	FL
Great Eastern Financial Services	Atlanta	GA
Hacienda Lenders Inc	Murrieta	CA
Hampton Mortgage Inc	Irvine	CA
Heritage Mtg Inc	Diamond Bar	CA
Hiawatha National Bank	Glenwood City	WI
HMC Home Mortgage Consultants Inc	Houston	TX
Home America Financial Inc	Orange	CA
Home Improvement Mortgage Inc	Phoenix	AZ
Home Mortgage Center Inc	Alexandria	VA
Home Mortgage Loans Treasure Coast	Miami	FL
Homesave Mortgage Corporation	Fullerton	CA
Homesense Financial Corp	Lexington	SC
Hometrust Mortgage Inc	Atlanta	GA
Houston Federal Credit Union	Sugar Land	TX
Infinity Capital Corporation	Newport Beach	CA

TITLE 1 LENDERS AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
International Bank of Commerce	Laredo	TX
Interwest Mortgage	Reno	NV
Jamaica Savings Bank FSB	Lynbrook	NY
Jan-Ron Financial Corp	Torrance	CA
Johnson and Associates Mortgage Co	Birmingham	AL
JRM Investment Corp	Brunswick	GA
JVR Inc	Fremont	CA
K Hovnanian Mortgage Inc	Red Bank	NJ
Key Bank and Trust	Owings Mills	MD
KeyBank National Association	Portland	OR
Keystone Financial Bank NA	Pottsville	PA
KGW Corporation	Lake Forest	CA
Kislak National Bank	North Miami	FL
Kit Albert Inc	Woodland Hills	CA
KMG Mortgage Services Inc	Mission Viejo	CA
La Crescent State Bank	La Crescnt	MN
Labe Federal Bank for Savings	Chicago	IL
Laffranchini Financial Corp	Palm Desert	CA
Laswell Inc	Cerritos	CA
Lauren Financial Services Inc	Huntington Beach	CA
Ledoux Investments Inc	Rancho Cucamonga	CA
Liberty Mortgage Finance Services Inc	Davie	FL
Lincoln Financial Mortgage Corp	Seminole	FL
Long Island Savings Bank FSB	Melville	NY
LP California Mortgage Inc	Newport Beach	CA
Macomb Schools—Government CR	Clinton Township	MI
Madera Financial Inc	Tucson	AZ
Magellan Mortgage Corporation	Irvine	CA
Mandrell Mortgage	Las Vegas	NV
Maple Park Mortgage Company	St Charles	IL
Marble George and McGinley Inc	Orange	CA
Marina Mortgage Company Inc	Irvine	CA
MCA Mortgage Corporation	Southfield	MI
McKeesport Hospital EMP FED CU	McKeesport	PA
Mercantile Bank NA	Navada	MO
Metropolitan Financial Corp	Phoenix	AZ
Metropolitan State Bank	Montville	NJ
MFG Funding Inc	La Habra	CA
MFK Financial Corporation	San Francisco	CA
Midland Federal Savings and LN	Bridgeview	IL
MIGLP LP	Knoxville	TN
Millennium Mortgage Corp	West Palm Beach	FL
Mirage Financial Service	North Miami Beach	FL
Missouri State Bank and Trust	St Louis	MO
Money First Financial Services Inc	Las Vegas	NV
Mortgage America Inc	Allentown	PA
Mortgage Capital Finan Servces	Calverton	MD
Mortgage Clinic Inc	Pembroke Pines	FL
Mortgage Investors of Orlando Corp	Orlando	FL
Mortgage Plus Equity and Loan Corp	Melville	NY
Mortgage Plus Inc	Grand Rapids	MI
Mortgage Store LLC	Franklin	TN
Mortgagelink Inc	Newport Beach	CA
Mundaca Financial Services LLC	Franklin	TN
Mutual Savings Bank FSB	Bay City	MI
National Bank	Gatesville	TX
National Bank Commerce Trust Svgs Assn	Lincoln	NE
National Bank Redwoods NA	Santa Rosa	CA
National Charter Mortgage Corporation	Cerritos	CA
National Home Funding Corp	Calabasas	CA
NCS Mortgage Services LLC	Norcross	GA
New Hope Funding	Ontario	CA
New West Financial Services Inc	Covina	CA
Newport Shores Financial Inc	Aliso Viejo	CA
NME National Mortgage Executive Inc	Scottsdale	AZ
North American Bank and Trust Co	Waterbury	CT
North Star Residential Mtg	Castaica	CA
Northeastern Mortgage Investment Corp	Tarrytown	NY
Northwest Savings Bank	Amery	WI
Northwoods Bank of Minnesota	Park Rapids	MN
Ober Financial Corporation	Victorville	CA

TITLE 1 LENDERS AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Ocean West Enterprises Inc	Tustin	CA
Oceanside Mortgage Corporation	Huntington Beach	CA
Old Century Mortgage Corporation	Los Angeles	CA
Old City Mortgage	Covina	CA
One Stop Mortgage Inc	Irvine	CA
One Valley Bank NA	Charleston	WV
One Valley Bk of Oak Hill Inc	Oak Hill	WV
Orion National Equity Corp	Irvine	CA
Oro Real Inc	Fremont	CA
Ottuma Postal Employees Cu	Ottumwa	IA
Pacific Coast Financial Service	San Clemente	CA
Pacific First Fin Re Est Ln Inc	Torrance	CA
Pacific Northwest Funding Group	Palm Springs	CA
Pacific Southwest Bank FSB	Corpus Christi	TX
Pan American Finan Svcs Inc	Chicago	IL
Pappadakis Corporation	Jacksonville	FL
Peninsula Mortgage Bankers Corp	Coral Gables	FL
Peoples Mortgage Corporation	Colorado Springs	CO
Performance Plus Mortgage Corporation	Tucson	AZ
Pierucci Inc	Glen Mills	PA
Plaza Residential Mortgage	Riverside	CA
Precision Financial Inc	Tustin	CA
Precision Funding	Corona	CA
Premier Associates Mortgage Co	Temecula	CA
Professional American Mortgage Inst Inc	Sunrise	FL
Progressive Loan Funding	Seal Beach	CA
Prosource Mortgage Corp	Avon	CO
Prosperity Mortgage Corporation	Inglewood	CA
Pt Ilta Karya Investment Inc	Hacienda Heights	CA
Re Mortgage Group Inc	Anaheim Hills	CA
RealCo Funding and Properties	Inglewood	CA
Rengar Mortgage Inc	Downey	CA
Republic Home Loan Corp	Los Gatos	CA
Residential Lending Profession	San Diego	CA
Residential Mortgage Corp	Las Vegas	NV
Residential Mortgage Services Inc	South Portland	ME
Resource Financial Services Inc	Anaheim Hills	CA
Revird Corporation	Santa Fe Springs	CA
Richard and Mike's Calabasas	Calabasas	CA
Richard Thomas Mortgage	Laguna Niguel	CA
Richmond County Savings Bank	Staten Island	NY
RKL Mortgage Services Inc	Newport Beach	CA
Roosevelt Savings Bank	Garden City	NY
Sacramento Valley Mortgage Corp	Fair Oaks	CA
Saddleback Investment Services Inc	Laguna	CA
San Diego First Bank	San Diego	CA
Scott Residential Services Inc	Citrus Heights	CA
Seascape Finance Inc	Vero Beach	FL
Security Lending Wholesale LC	Salt Lake City	UT
SFI Federal Credit Union	Veron	CA
Shore Bank and Trust	Cleveland	OH
Shorette Mortgage Inc	Winter Haven	FL
Silverback Mortgage Inc	Los Angeles	CA
Simi Valley Financial Cntr Inc	Simi Valley	CA
Smomlo Inc	Mission Hills	CA
Socal Financial Group Inc	San Diego	CA
Source One Mortgage Corporation	Farmington Hills	MI
Southern California Funding Inc	Laguna Hills	CA
Southland Lending Services	Huntington Beach	CA
Southwest Lending LLC	Phoenix	AZ
Southwest Research Center FCU	San Antonio	TX
Sovereign Bank FSB	Wyomissing	PA
St Paul FederaL Bk For Savings	Chicago	IL
Stauffers Brokerage Inc	Ventura	CA
Sterling Home Realty and Fin Srvcs Inc	Long Beach	CA
Sterling Lending Corporation	Baton Rouge	LA
Stoneridge Mortgage Corp	San Diego	CA
Stuart-Wright Mortgage Inc	La Palma	CA
Suburban Federal Savings FSB	Harvey	IL
Sunstate Mortgage Inc	Daytona Beach	FL
T L C Financial Corporation	Elizabeth	NJ

TITLE 1 LENDERS AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
TG Mortgage Inc	Aliso Viejo	CA
The Co-Operative Bank	Roslindale	MA
The-Trust Deed Corporation	Laguna Niguel	CA
Time Deposits Int'l Inc	Van Nuys	CA
TMI Acceptance Corp	Austin	TX
TNT Financial Inc	Chino	CA
Towne Center Properties Inc	Cerritos	CA
Trenton Savings Bank	Trenton	NJ
Tri City National Bank	Oak Creek	WI
Tri County Mortgage Co Inc	Corbin	KY
Two Rivers Federal CU	Johnson City	NY
U S E Community Services Group	Downey	CA
U S Savings Bank	Las Vegas	NV
Union Deposit Loan and Inv Bk	North Providence	RI
Union Planters National Bank	Clinton	TN
United California Lenders Corporation	Tustin	CA
United Midwest Savings Bank	Degraff	OH
United Mortgage Corp	Hauppauge	NY
Universal Lending Group Inc II	Baltimore	MD
Vanleeuwen Pye and Associates Inc	San Diego	CA
Vasquez Mims and Associates Inc	San Diego	CA
Vendl Financial Corporation	Walnut Creek	CA
Venture Mortgage Inc	Atlanta	GA
Viking Bank	Moorhead	MN
Wachovia Bank NA	Winston Salem	NC
Walden Savings Bank	Walden	NY
Westview Financial Co Inc	San Jose	CA
Westwood Homestead Savings Bank	Cincinnati	OH
Wholesale Capital Corp	Moreno Valley	CA
Wright Patt Credit Union	Fairborn	OH
Yorktown Mortgage and Fin Corp	Fullerton	CA

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001

Name	City	State
A and B Mortgage Inc	Spokane	WA
A H L Inc	Roseburg	OR
A S H Elite Funding Corporation	Culver City	CA
AAA Mortgage Advisors Inc	Orlando	FL
AACE Mortgage Services LLC	Berthoud	CO
AADUS Plus Financial	Palatine	IL
AAmericorp Mortgage Services	Dyer	IN
AArrow Mortgage Group Inc	Lancaster	PA
AB Mortgage	Dallas	TX
Abbey Mortgage and Investments Inc	Denver	CO
Abbey Park Inc	Lenexa	KS
Accelerated Mortgage	Salt Lake City	UT
Acceptance Mortgage Corp	Southfield	MI
ACG Financial Srvs IMC Inc	Dallas	TX
Advanced Financial Services Inc	Fairlawn	OH
Advanced Mortgage Inv Co Inc	Miami	FL
Advantage Real Estate LLC	Springfield	VA
Advest Bank	Hartford	CT
Affiliated Mortgage Service Inc	Rancho Cucamonga	CA
Affordable Mortgage Inc	Phoenix	AZ
AFS Mortgage Inc	Washington	DC
AGRA Capital Corporation	Towson	MD
Ahfund Inc	St. Petersburg	FL
AKT Mortgage Group Inc	Anaheim Hills	CA
All American Mortgage Company	Billings	MT
All American Mortgage Corp	Miami Shores	FL
All Florida Mortgage Inc	Davie	FL
All Home Mortgage LP	Hanford	CA
All Source Lending Inc	Wilsonville	OR
Alliance Mortgage Inc	Seattle	WA
Allpro Mortgage LLC	South Jordan	UT
Allstate Financial Co Inc	Artesia	CA
Allstate Home Mortgage Inc	Raleigh	NC
Alpha Mortgage Corp	Denver	CO

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Alta Loma Financial Corp	Rancho Cucamonga	CA
Altoona Federal Savings and Loan Assn	Altoona	PA
Alwayz Mortgage Services Inc	Schaumburg	Il
Ambassador Mortgage Corp	Turnersville	NJ
Americal Funding Inc	Pleasanton	CA
American Advantgage Mtg Fin Cor	Edina	MN
American Capital Corporation	Indianapolis	IN
American Capitol Financial Corp	Landover	MD
American Diversified Funding	Temecula	CA
American Dream Mortgage Inc	Bedford	TX
American Family Mortgage	Hazelwood	MO
American Federal Lending Inc	Denver	CO
American First Funding Corp	Salt Lake City	UT
American Funding Exchange Inc	Scottsdale	AZ
American Liberty Capital	Irvine	CA
American Mortgage Funding Corp	Atlanta	GA
American Mortgage Funding Corporation	Portland	ME
American Mortgage Network Corp	Park Forest	IL
American Mortgage Reduction Inc	Owings Mills	MD
American Mortgage Securities Inc	Clearwater	FL
American National Bank	Oakland Park	FL
American Republic Mortgage Co	Costa Mesa	CA
American Residential Mortgage	Maplewood	MN
American Savings Mortgage Co Inc	Honolulu	HI
American West Mortgage Corp	Salt Lake City	UT
Americanet Mortgage Corporation	Laguna Hills	CA
Americapital Funding Corporation	Hoover	AL
Americas Cashline Corp	Scottsdale	AZ
Americas Lender Inc	Irvine	CA
Amerifed Mortgage Corporation	Saint Louis Park	MN
Amerifirst Mortgage Group Inc	Fairlawn	OH
Amerimark Mortgage Corp	Glen Ellyn	IL
Amerinet Mortgage Services Corporation	Austin	TX
Ameristone Mortgage Corporation	Braintree	MA
Amerus Life Insurance Co	Des Moines	IA
Amwest Mortgage LLC	Denver	CO
Anderson Community Bank	Anderson	IN
Annwin Inc	Huntington Beach	CA
Apex Mortgage Inc	Dallas	TX
Apple Tree Mortgage Inc	Kingsport	TN
Application Processing Inc	San Antonio	TX
Approved Mortgage Company	Oak Forest	IL
Approved Mortgage Corp	Portland	OR
Arc Financial Group Inc	Marlton	NJ
Arizona Family Mortgage	Phoenix	AZ
Arlington Federal Credit Union	Arlington	TX
Arrowhead Mortgage Company	Milford	OH
Arvest Bank	Shawnee	OK
Aspen Mortgage Inc	Simi Valley	CA
Assurance Mortgage Corporation	Orlando	FL
Atlantic Finance And Credit	Howell	NJ
Atlantic Mortgage Corp	Fort Lauderdale	FL
Ato Financial Inc	Fremont	CA
Aurora Mortgage Corporation	West Palm Beach	FL
Aurora Mortgage Inc	Auburn	WA
Aurora National Bank	Aurora	IL
Austin Funding Com Corporation	Austin	TX
Avemco Corporation	Frederick	MD
Balanced Mortgage Corp	Indianapolis	IN
Bank of Elkins	Elkins	AR
Bank of Hanover and Trust Co	Hanover	PA
Bank of Lake County	Lakeport	CA
Bank of Las Vegas	Las Vegas	NM
Bank of McCrory	McCrory	AR
Bank of Murfreesboro	Murfreesboro	TN
Bank of Pocahontas	Pocahontas	AR
Bank of Raleigh	Beckley	WV
Bank of Western Massachusetts	Springfield	MA
Bank of York	York	SC
Bank of Pensacola	Pensacola	FL
Bank Street Mortgage Company	Baltimore	MD

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Bankers Mortgage Associates Inc	Plantation	FL
Bankers Mortgage Corp	Evanston	IL
Banking Mortgage Srvs Bms Corp	Coral Gables	FL
Barrington Mortgage Company Inc	Jackson	MS
Bayport Financial Incorporated	Rancho Cucamonga	CA
Bayshore Mortgage LLC	Milwaukee	WI
Beacon Mortgage Services LLC	Lawrenceville	GA
Bedford Financial Inc	Byron Center	MI
Bell Financial Group Inc	Saint Petersburg	FL
Ben Snyder Mortgage Corp	Fort Worth	TX
Best Home Loans Incorporated	Ridgecrest	CA
Best MTG Corporation	Walnut	CA
BFG Inc	Nashville	TN
Blue Ribbon Financial LLC	Rapid City	SD
Blue Sky Mortgage LLC	Nashville	TN
Boeing Employees Credit Union	Tukwila	WA
Bomac Home Mortgage Inc	Dallas	TX
Bridgemore Financial Inc	Plano	TX
Britten Enterprises Inc	Auburn	WA
Brodon Holdings Inc	Santa Monica	CA
Brookside Mortgage Inc	Los Angeles	CA
Brucha Mortgage Bankers Corp	Brooklyn	NY
Buckeye Mortgage Banc Corp	Kettering	OH
Buyers Choice Mortgage Service Inc	Hagerstown	MD
California Lending Group	Irvine	CA
Calmco Servicing LP	Austin	TX
Calumet Federal Savings ALA	Dolton	IL
Cameron Mortgage Company	Jacksonville	FL
Campbell And Campbell LLC	Greenfield	WI
Cannondale Financial LLC	Wilton	CT
Capcon Financial Services Inc	Cupertino	CA
Capital Direct Mortgage Inc	Sacramento	CA
Capital Funding of South Florida Inc	Palm City	FL
Capital Mortgage Network Inc	Palos Heights	IL
Capital Plus Financl Corp	San Diego	CA
Capital Savings Co Inc	Raleigh	NC
Cardinal Mortgage Company Inc	Los Angeles	CA
Carey Kramer Silvester Assoc	Weston	FL
Caribbean Home Mortgage Corp	Brooklyn	NY
Carolina Mortgage Network Inc	Aiken	SC
Casa Mortgage Inc	Encino	CA
Cascade Pacific Mortgage Co	Vancouver	WA
Cashnet Financial Group Inc	Plano	TX
Castle Mortgage Inc	Oak Brook	IL
Catlettsburg Federal Saving and ln Assoc	Catlettsburg	KY
CB and T Bank of Russell Cnty	Phenix City	AL
CDK Mortgage Inc	Naperville	IL
Censtar Financial Inc	Independence	OH
Centennial Banc Share Corp	Denver	CO
Centennial Funding Corporation	Puyallup	WA
Centennial Savings Bank	Durango	CO
Central National Bank	Canajoharie	NY
Centurion Bancorp	Los Angeles	CA
Century Bank	Columbus	OH
Century Mortgage LP	Dallas	TX
Certified Home Loans Inc	Miami	FL
Certified Mortgage Associates	Marlboro	NJ
CFE Mortgage Corporation	Pasadena	CA
Challenge Mortgage Corporation	Hinsdale	IL
Champion Credit Corporation	San Diego	CA
Chappelow Mortgage Co	Indianapolis	IN
Chatham Savings and Loan Assn	Chatham	NJ
Che Management Inc	Cerritos	CA
Cherry Tree Mortgage	Indianapolis	IN
Choice Mortgage Services Inc	Lockport	IL
Citadel Mortgage Banc Corp	Columbus	OH
Citizens Bank Central Indiana	Greenwood	IN
Citizens Bank Illinois NA	Mount Vernon	IL
Citizens Bank Jasper	Jasper	IN
Citizens Bank Kentucky	Madisonville	KY
Citizens Bank of Oviedo	Oviedo	FL

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Citizens Bank Western Indiana	Terre Haute	IN
Citizens First Mortgage	Winter Park	FL
Citizens Mortgage Corp	Fairfax	VA
Citizens National Bank	Evansville	IN
Citizens National Bank	Canton	OH
Citizens National Bank	Fort Worth	TX
Citizens National Bank of Texas	Bellaire	TX
Citizens State Bank	Oakland	IA
Citizens State Bank	Shakopee	MN
Citizens State Bank	Paola	KS
City Finance Inc	Chicago	IL
City Wide Financial Group Inc	Broomfield	CO
Cityscape Corp	Elmsford	NY
CLB LLC	Boise	ID
CMAL Inc	Tampa	FL
Coast Mortgage Corporation	Sea Bright	NJ
Coastal Fidelity Mortgage Corp	Carlsbad	CA
Coastline Mortgage Inc	Boca Raton	FL
Colonial Mortgage Group LLC	Bethesda	MD
Commercial Bank of Florida	Miami	FL
Commonwealth PA State Empl Ret	Philadelphia	PA
Community Commerce Bank	Los Angeles	CA
Community First Bank	Lansing	MI
Community Home Buyers Club Incorporated	Los Angeles	CA
Community Loan Center Inc	St George	UT
Community National Mtg Corp	Ponte Vedra Beach	FL
Compass Financial Corp	Denver	CO
Compass Mortgage	Huntington Beach	CA
Consolidated Funding Corp	Winter Park	FL
Consolidated Home Loans	Oceanside	CA
Consumer Equity Corporation	Smithtown	NY
Consumer Mortgage Corp	Brentwood	TN
Continental Financing Company	Schaumburg	IL
Continental Funding Corp	Bloomingdale	IL
Cornell Fingerlakes Credit Union	Ithaca	NY
Cornerstone Mortgage Corp	Denver	CO
Corporate Capital Financial Inc	Cerritos	CA
Cosmos Mortgage Corporation	Annandale	VA
Covenant Mortgage Inc	Gun Barrel City	TX
Covenant Mortgage Inc	Norman	OK
Creative Financing Group	Oxford	MI
Creative Mortgage and Equity Corp	Calumet City	IL
Creative Mortgage Financial Corporation	Lincolnwood	IL
Crest Savings Bank SLA	Wildwood Crest	NJ
Crusader Bank	Philadelphia	PA
Cumanet Inc	West Paterson	NJ
Custom Financial Services Inc	Longwood	FL
Custom Funding LLC	Westport	CT
Custom Home Mortgage LLC	Gilbert	AZ
CVT Properties Inc DBA Prime Financial	Costa Mesa	CA
CW Financial Inc	Dana Point	CA
D and D Funding Inc	Montebello	CA
D and K Ventures Inc	Helena	MT
Dakota State Bank	Sioux Falls	SD
Dana Gunn Financial Srvs Inc	San Diego	CA
Darwal Corporation	Oxnard	CA
Development Bank	American Samoa	HI
Diablo Mortgage Company	Walnut Creek	CA
Diversified Lending Services	Broomfield	CO
Dolphin Mortgage Service Inc	West Dundee	IL
Dominion Mortgage Group Inc	Indianapolis	IN
Dominion Savings Bank FSB	Front Royal	VA
Dual Mortgage Corporation	Coral Gables	FL
Dynamic Mortgage Financial Corp	Garden Grove	CA
Dynex Healthcare Inc	Glen Allen	VA
Eagle Financial Funding Group Inc	San Clemente	CA
East Bay Mortgage Inc	Gig Harbor	WA
East Side Bank Trust	Oak Forest	IL
East West Financial Corp	Margate	FL
Eastern Hgts State Bank St Paul	St Paul	MN
Elite Mortgage Group Inc	Woodstock	GA

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Emmco The Mortgage Service Station	Lexington	SC
E-Mortgage Inc	York	PA
Empire Mortgage Group Inc	Margate	FL
Empire Mortgage Guarantee Corporation	Hollywood	FL
Enchantment Mortgage Inc	Santa Fe	NM
ENM Mortgage Inc	Downey	CA
Entrust Mortgage Headquarters	Gaithersburg	MD
Epic Mortgage Inc	Tigard	OR
Equilend Group Inc	Lake Forest	CA
Equity Financial Services	Little Rock	AR
Equity Rewards Mortgage Inc	Parsippany	NJ
Equivantage Inc	Houston	TX
Evergreen Mortgage Corporation	Grand Rapids	MI
Excmort Corporation	San Jose	CA
Executive Mortgage	Baton Rouge	LA
Executive Mortgage Corp	Fargo	ND
Executives Mortgage Group Inc	Littleton	CO
EZ Mortgage Services Co Inc	Florissant	MO
Fairway Financial Co	Austin	TX
Fairway Mortgage Services Inc	Moorestown	NJ
Faith Financial Services	Woodland Hills	CA
Farmers and Merchants Bank	Miamisburg	OH
Farmers and Merchants Natl Bank Bridgetn	Bridgeton	NJ
Farmers and Merchants State Bank	Virden	IL
Farmers Bank and Trust Company	Henderson	KY
FAS Nationwide Mortgage Services Inc	Newport Beach	CA
Fassett and Finucane Mortgage Serv Inc	Chicago	IL
Fayetteville Mortgage Company Inc	Fayetteville	NC
FCF Mortgage Corporation	Aliso Viejo	CA
FDB Mortgage Inc	Hunt Valley	MD
Feather River State Bank	Yuba City	CA
Federal Savings Bank	Rogers	AR
Fenix Mortgage Inc	Downey	CA
Fidelity National Mortgage Corp	Atlanta	GA
Fidelity State Bank	Garden City	KS
Finance Plus Mortgage Corp	Buena Park	CA
Financial Associates Inc	Lake Oswego	OR
Financial Trust Mortgage Corp	Miami	FL
Finlay Financial Corporation	Los Angeles	CA
First Accord Financial Inc	Mason	OH
First American Capital Mortgage Corp	Longwood	FL
First American Home Mtg	Columbia	SC
First American Mortgage Company	Mesa	AZ
First and Farmers Bank	Portland	ND
First and Farmers Bank Somerset	Somerset	KY
First Associated Mortgage Inc	Towson	MD
First Bank and Trust	Grooves	TX
First Bank and Trust	Jackson	AL
First Bank Florida	West Palm Beach	FL
First Boston Mortgage Corp	Woburn	MA
First Capital Group Inc	Miami	FL
First Carolina Federal Savings Bank	Kings Mountain	NC
First Central Bank NA	Cerritos	CA
First Chesapeake Funding Corp	Sunrise	FL
First City Financial Corp	Englewood	CO
First Coast Community Bank	Fernandina Beach	FL
First Colonial Mortgage Inc	Sherman	TX
First Colonial Mortgage of NJ Inc	Linden	NJ
First Commerce Bank	Logan	UT
First Commonwealth Bank	Prestonsburg	KY
First Community Bank and Trust	Cartersville	GA
First Consumers Mortgage Corp	Walnut Creek	CA
First Equitable Mortgage Corp	Annandale	VA
First Equity Lenders Incorporated	West Palm Beach	FL
First Federal S and L Assoc of San Rafae	San Rafael	CA
First Federated Mortgage Corp	Heath	OH
First Financial and Investment	Cockeysville	MD
First Financial Mortgage Corp	Colorado Springs	CO
First Financial of Boston	Fort Lauderdale	FL
First Home Acceptance Mtg Corp	San Diego	CA
First Keystone Mortgage Inc	Kimberton	PA

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
First Mortgage Fort Collins Inc	Fort Collins	CO
First National Bank	Hastings	MN
First National Bank	Shenandoah	IA
First National Bank	Chadron	NE
First National Bank	Farmington	NM
First National Bank	Broken Arrow	OK
First National Bank	Weatherford	TX
First National Bank	Bagley	MN
First National Bank	Liberal	KS
First National Bank	Central City	KY
First National Bank and Trust	Osawatomie	KS
First National Bank and Trust	Muskogee	OK
First National Bank of Gaylord	Gaylord	MI
First National Bank of Wetumpka	Wetumpka	AL
First National Bank Ogallala	Ogallala	NE
First National Funding Group	West Covina	CA
First Quality Mortgage Inc	Charlotte	NC
First Security Bank—Roundup	Roundup	MT
First Southern Natl Bank	Richmond	KY
First State Bank	Manchester	IA
First State Bank	Dumas	TX
First Sterling Financial Inc	Mount Laurel	NJ
First Suburban Corporation	Santa Ana	CA
First Western Bank Na	New Castle	PA
First Western Mortgage Co of Amer Inc	Ebglewood	CO
Firstline Funding Inc	Irvine	CA
Firstregional Mortgage	Florence	SC
Flagship Capital Services Corp	Sacramento	CA
Flagstar Bank FSB	Jackson	MI
Fletcher Hills Financial	La Mesa	CA
FNB Funding Inc	Daytona Beach	FL
Fort Bend Federal Savings ALA	Rosenberg	TX
Forum Express Home Loans	Laguna Hills	CA
Founders Mortgage Co Inc	Columbia	MD
Four Counties Mortgage Inc	Fresno	CA
Four Star Mortgage LTD	Dallas	TX
Fox Chase Federal Savings Bank	Philadelphia	PA
Franklin Mortgage and Investment Co Inc	Pueblo	CO
Freeport Financial Group Inc	Westlake Village	CA
Fremont Bank	Fremont	CA
Friendly Hills Mortgage Corp	Waittier	CA
Front Range Home Mortgage Inc	Colorado Springs	CO
FSI Mortgage Inc	Bloomington	MN
Future Financial Mortgage Corp	Citrus Heights	CA
G A Investments Inc	Corona	CA
G I Funding Inc	Bellflower	CA
Garnet Holdings Inc	Baton Rouge	LA
Gelt Financial Inc	Southampton	PA
General Mortgage Acceptance Corp	Orange	CA
General Mortgage Corporation	Honolulu	HI
GFC Corporation	Tustin	CA
Gibraltar Savings Bank SLA	Newark	NJ
Gilmer Savings Bank FSB	Gilmer	TX
Glendora Mortgage Inc	Glendora	CA
Global Holdings I LLC	Bellevue	WA
Globalnet Funding Corp	Montclair	CA
Golden Key Mortgage	Modesto	CA
Golden State Mortgage Capital Inc	Danville	CA
Golden State Mortgage Colorado Inc	Denver	CO
Golden State Mortgage Corp	San Jose	CA
Goldpoint Mortgage Bankers Inc	Great Neck	NY
Goldstar Financial Inc	Sanford	FL
Goodrich Mortgage Inc	Newport Beach	CA
Grand Haven Bank	Grand Haven	MI
Granite Mortgage Corp	Springfield	VA
Grant Mortgage Services Inc	Tampa	FL
Grayco of Arkansas Inc	Little Rock	AR
Great American Capital Corp	Costa Mesa	CA
Great American MTG Inc Utah	Salt Lake City	UT
Great Eastern Financial Services	Atlanta	GA
Great Five Percent Real Est Co	Covina	CA

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Great Home Mortgage Corporation	Lombard	IL
Great Southwest MTG Corp	Phoenix	AZ
Great Western Thrift and Loan	Salt Lake City	UT
Greater Chicago Mortgage Corp	Tinley Park	IL
Greater Financial Corp	Hialeah	FL
Greater Pacific Northwest Corp	Estacada	OR
Green River Mortgage Corp	Houston	TX
Greenwich Mortgage Corporation	Providence	RI
Gretna State Bank	Gretna	NE
Guaranty Funding Mortgage Group LTD	Centerville	OH
Guthrie Federal Savings Bank	Guthrie	OK
Guy Financial Inc	La Verne	CA
GW Financial Services Inc	Costa Mesa	CA
Gwinnett Banking Company	Lawrenceville	GA
Hacienda Lenders Inc	Murrietta	CA
Hamilton Midwest Mortgage Inc	Eden Prairie	MN
Hamilton Mortgage Partners LLC	Huntsville	AL
Hanmi Realty Inc	Los Angeles	CA
Hanover Capital Mortgage Corp	New York	NY
Harbourton Reassurance Inc	Philadelphia	PA
Harlingen National Bank	Harlingen	TX
Hartford Carlisle Savings Bk	Carlisle	IA
Hawthorne Savings and Loan	El Segundo	CA
Hearthside Lending Corp	Gladstone	MO
Heartland Financial Corporation	Fort Lauderdale	FL
Heartland Mortgage Corporation	Tulsa	OK
Help U Save Inc	Manteca	CA
Hemet Federal Savings ALA	Hemet	CA
Heritage Bank	Marion	IA
Heritage Bank	Red Oak	TX
Heritage Financial Group LLC	Indianapolis	IN
Heritage Mortgage LTD Co LLC	Albuquerque	NM
Heritage Olympia Bank	Chicago Heights	IL
HFG Mortgage Corporation	Dallas	TX
Hillcrest Mortgage Inc	Rancho Cucamonga	CA
Hmc-Home Mortgage Consultants	Houston	TX
Holland Mortgage Corp	Cartersville	GA
Home America Financial Inc	Orange	CA
Home Improvement Mortgage Inc	Phoenix	AZ
Home Loans Limited of Georgia	Columbus	GA
Home Mortgage Acceptance Corp	New York	NY
Home State Bank and Trust Co	McPherson	KS
Homebuyers Financial Corp	Coconut Creek	FL
Homeland Financial Corp	Marietta	GA
Homesave Mortgage Corporation	Fullerton	CA
Homesense Financial Corporation	Lexington	SC
Homesource Mortgage Inc	Buford	GA
Homesouth Mortgage Corporation	Atlanta	GA
Homesouth Mortgage Inc	Clarksville	TN
Homespace Services Inc	Pasadena	CA
Horizon Bank—Florida	Pensacola	FL
Horizon Bank Savings Bank	Bellingham	WA
Horizon Investments Inc	San Diego	CA
Horizon Residential Lending	Rancho Cordova	CA
HTJ Brokerage	Los Angeles	CA
Hughes Aircraft Employees Federal CU	Manhattan Beach	CA
Idaho Company	Boise	ID
Illinois Mortgage Services Inc	Oak Park	IL
Impact Mortgages Inc	Cape Coral	FL
Independence Bank Kentucky	Livermore	KY
Independent Bankers Bank of FL	Lake Mary	FL
Infinity Capital	Costa Mesa	CA
Innovative Financial Services	Honolulu	HI
Insight Mortgage Services	San Diego	CA
Interbank New York	Astoria	NY
International Lending Unlimited Inc	Miami	FL
International Millennium Group	Bell	CA
International Mortgage Ctr Inc	Garden City	NY
Investaid Corporation	Birmingham	MI
Investors Lending Inc	Fresno	CA
Investors Mortgage Corp	Columbia	MD

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Iron Workers Dist Council S OH	Vandalia	OH
J D Capital Corp	Huntington Beach	CA
Jandel Group LLC	Scottsdale	AZ
Jefferson Bank	Downingtown	PA
Jeffrey Weiner Corporation	Fort Lauderdale	FL
Jes Investments Ltd	Columbia	MS
JL Mortgage Company	Columbia	SC
JL Nunn Inc	Pueblo	CO
Jonathan Funding Group Inc	Sherman Oaks	CA
JRM Investment Corp	Brunswick	GA
JZ Mortgage Inc	Walnut Creek	CA
KGW Corporation	Lake Forest	CA
Kingsland Funding Corp	New York	NY
Kingsway Mortgage Corp	West Covina	CA
Kit Albert Inc	Woodland Hills	CA
Kittitas Valley Bank	Ellensburg	WA
Kmg Mortgage Services Inc	Mission Viejo	CA
Laffranchini Financial Corp	Palm Desert	CA
Lake Shore Savings and Loan Association	Dunkirk	NY
Lakeview Mortgage Depot Inc	West Paterson	NJ
Lancorp Financial Network Inc	Lancaster	PA
Landis Mortgage Financing Inc	Davie	FL
Landmark Financial Services Inc	Plano	TX
Lasalle Bank NA	Chicago	IL
Laswell Inc	Cerritos	CA
Leapfrog Financial LLC	Brighton	CO
Ledoux Investments Inc	Rancho Cucamonga	CA
Legacy Mortgage Corporation	Indianapolis	IN
Legend Financial Group Inc	San Diego	CA
Legendary Capital Inc	Dallas	TX
Lenders Direct Mortgage Co	Sarasota	FL
Lenders Financial Services Inc	Ft Lauderdale	FL
Lenders MD Inc	Amherst	OH
Lending Group Of So Florida	Stuart	FL
Levitt Mortgage Corporation	Boca Raton	FL
Liberty Mortgage Finance Ser	Fort Lauderdale	FL
Lincoln Mortgage LLC	Schaumburg	IL
Linksters Financial Group Inc	Santa Rosa	CA
Local America Bank Tulsa FSB	Tulsa	OK
LP California Mortgage Inc	Newport Beach	CA
LRS Inc	Campbell	CA
Luxor Financial LTD	Los Alamitos	CA
M and I First National Bank	West Bend	WI
M and I Merchants Bank	Rhinelander	WI
Madison Square Federal Savings Bank	Baltimore	MD
Main Street Mortgage Services	Saddle Brook	NJ
Majestic Mortgage Inc	Winter Park	FL
Mandrell Mortgage	Las Vegas	NV
Mapleleaf Mort Corp	Lutherville	MD
Marathon Home Lending	Tustin	CA
Marble George and McGinley Inc	Orange	CA
Mariner Mortgage Inc	Seattle	WA
Market America Mortgage	Tampa	FL
Market Financial Ltd	Chicago	IL
Marshall Mortgage Corporation	Campbell	CA
Marshfield Savings Bank	Marshfield	WI
Marval Mortgage Corporation	Yorktown Hghts	NY
Massachusetts Mortgage Advisory	Braintree	MA
Maximum Output Mortgage Inc	Newport Beach	CA
McLean Mortgage Group Inc	McLean	VA
Meetingplace Mortgage Corp	Windham	NH
Mercantile Bank Dubuque NA	Dubuque	IA
Mercantile Bank of Topeka	Topeka	KS
Mercantile Bank Saint Joseph	Saint Joseph	MO
Merchants National Bank	Aurora	IL
Merit Mortgage Inc	Plano	TX
Metro Mortgage and Financial Srvs	Englewood	CO
Metropolitan Financial Corp	Phoenix	AZ
Metropolitan Mortgage Co	Miami	FL
Metrotrust Financial Corporation	Santa Ana	CA
MFJ Inc	Clifton Park	NY

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
MFK Financial Corp	San Francisco	CA
Miami Mortgage Center Corp	Miami	FL
Michigan Mortgage Lenders Corp	Bloomfield Hills	MI
Mid Coast Inc	San Luis Obispo	CA
Mid Rivers Holding Inc	Earth City	MO
Mid State Mortgage Company Inc	Columbia	SC
Midtown Mortgage Corporation	Cleveland	OH
Midwest Savings Bank	Bolingbrock	IL
Mill River Mortgage	Weymouth	MA
Millcreek Mortgage Co	Bountiful	UT
Millennium Mortgage Corp	West Palm Beach	FL
Mirage Financial Services	North Miami Beach	FL
Mitchell Financial Ser Inc	Tucson	AZ
MNC Mortgage Servicing	Memphis	TN
Monaco Funding Inc	Las Vegas	NV
Monarch Mortgage Inc	Northampton	MA
Moneyland Corporation	Baton Rouge	LA
Moneysource Inc	Portland	OR
Monicor Mortgage	Santa Ana	CA
Morgan Federal Bank	Fort Morgan	CO
Mortgage Acceptance Corp Inc	Murfreesboro	TN
Mortgage Alliance Network Inc	Moreno Valley	CA
Mortgage Capital Finan Service	Calverton	MD
Mortgage Club Inc	Los Angeles	CA
Mortgage Company Inc	Hillside	IL
Mortgage Coordinators Inc	Upland	CA
Mortgage Corporation of America	Southfield	MI
Mortgage Development Company	Longmont	CO
Mortgage Dynamics Inc	Deerfield Beach	FL
Mortgage Embassy Corporation	Miami	FL
Mortgage Express	Palm Beach Gardens	FL
Mortgage Financial Group of Florida	Fort Lauderdale	FL
Mortgage Funding Network Inc	Atlanta	GA
Mortgage Guaranty Corp	Jackson	MS
Mortgage Lending Corporation	Evergreen Park	IL
Mortgage Market Inc	St Augustine	FL
Mortgage Masters Inc	Lake Oswego	OR
Mortgage Masters Investors Inc	Miami	FL
Mortgage One Corporation	Hesperia	CA
Mortgage One Inc	Portland	OR
Mortgage Plus Equity and Loan Corp	Melville	NY
Mortgage Shoppe Inc	Guntersville	AL
Mortgage Solutions New Jersey	Pennington	NJ
Mortgage Store Inc	Kihei	HI
Mortgage Team Inc	Northfield	NJ
Mortgageline Funding Corp	Bend	OR
Mortgagelink Inc	Newport Beach	CA
Mountain National Bank	Woodland Park	CO
Mutual Savings Bank FSB	Bay City	MI
NAREB Investment Division Inc	Oakland	CA
NATCAP Financial Inc	Chevy Chase	MD
National Bank and Trust Co	Chariton	IA
National Bank of Commerce	Tuscaloosa	AL
National Bank of Commerce	Berkeley	IL
National Bank of SC	Charleston	SC
National Bank Redwoods NA	Santa Rosa	CA
National Express Mortgage Corp	La Palma	CA
National Funding Service Inc	Medford	OR
National Mortgage Acceptance	Fort Lauderdale	FL
National Mortgage Lending Inc	Irvine	CA
National Mortgage Services Inc	St Louis	MO
National Realty Funding LC	Kansas City	MO
Nations Mortgage Corporation	Winter Springs	FL
NationsCredit Home Equity Srvs Corp	Irving	TX
Nationwide Financial Corp	Burke	VA
Nationwide Funding Corporation	Chicago	IL
Navy Orlando Federal Credit UN	Orlando	FL
NBGI Inc	Los Angeles	CA
NEFWIN Mortgage Group Ltd	Oak Brook	IL
Neighborhood HSG Serv of Santa Fe Inc	Santa Fe	NM
Neighborhood National Bank	San Diego	CA

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Network Financial Group Inc	Miami	FL
Network Resources Inc	Austin	TX
Nevada Mortgage Express LLC	Reno	NV
New Hampshire Fed Credit Union	Concord	NH
New Hope Funding	Ontario	CA
New Jersey Mortgage Inv Corp	Roseland	NJ
New West Financial Services Inc	Covina	CA
New West Mortgage Corp	Fort Worth	TX
Newport Shores Financial Inc	Aliso Viejo	CA
Nexus Financial LLC	Oakland	NJ
NME National Mortgage Executives Inc	Scottsdale	AZ
Noble Mortgage Co Inc	Allentown	PA
Nordstrom Leiren and Associates	Kirkland	WA
North Country Savings Bank	Ogdensburg	NY
North County Bank	Escondido	CA
North Shore Bank	Peabody	MA
North Texas Home Loans Inc	Denton	TX
North Valley Bank Redding	Redding	CA
Northeastern Mortgage Investment Corp	Tarrytown	NY
Northern Trade Mortgage Corp	Miami	FL
Northwest Savings Bank	Amery	WI
Norwalk Cumming State Bank	Norwalk	IA
Oak Hills Savings and Loan Co	Cincinnati	OH
Ocean Bank of Miami	Miami	FL
Oceanside Christopher Fed Cr Un	Oceanside	NY
Old Century Mortgage Corp	Los Angeles	CA
Old City Mortgage	Covina	CA
Old Pioneer Mortgage Company of Ohio Inc	Sharonville	OH
Old Redwood Mortgage Company	Santa Rosa	CA
Omega Mortgage Corporation	Jefferson	OH
One Stop Mortgage Inc	Irvine	CA
Opportunity Mortgage Corporation	Charlotte	NC
Option Home Lending Inc	Chicago	IL
Oriental Mortgage Corp	Rio Piedras	PR
Orion National Equity Corp	Irvine	CA
Owners Equity Mortgage Corp	Tarpon Springs	FL
Pacesetter Bank	Hartford City	IN
Pacific Colonial Funding LP	San Diego	CA
Palomar Savings Loan Assn	Escondido	CA
Paradigm Mortgage Associates Inc	Jacksonville	FL
Paramount Mortgage Corporation	Beltsville	MD
Paris National Bank	Paris	MO
Park Place Financial Inc	Lombard	IL
Passumpsic Savings Bank	Saint Johnsbury	VT
Patrick Marketing Group Inc	Las Vegas	NV
Paxin Mortgage Company	Oklahoma City	OK
Peach Plus Financial Inc	Atlanta	GA
Pee Dee State Bank	Timmonsville	SC
Peoples Bank	Dickson	TN
Peoples Bank of North Alabama	Cullman	AL
Peoples Bank of Pt Pleasant	Pt Pleasant	WV
Peoples Bank Winder	Winder	GA
Peregrine Financial Services Inc	San Ramon	CA
Performance Plus Mortgage Corp	Tucson	AZ
Pierbank	Narragansett	RI
Pierucci Inc	Glen Mills	PA
Pikes Peak Mortgage Company	Colorado Springs	CO
Pinnacle Bank	Oak Park	IL
Pioneer Bank	Munfordville	KY
Positive Mortgage Inc	New York	NY
Poughkeepsie Savings Bank FSB	Poughkeepsie	NY
Power Funding Group Inc	Williamsville	NY
Prairie Financial Company Inc	Artesia	CA
Precision Financial Inc	Tustin	CA
Preferred Funding Corp II	Fort Lauderdale	FL
Preferred Home Credit Corp	Murray	UT
Preferred Lending Services	Colorado Springs	CO
Preferred Mortgage Corporation	Marlton	NJ
Preferred Mortgage Source Inc	Peachtree City	GA
Premier National Bank Dalton	Dalton	GA
Presidential Mortgage Corporation	Birmingham	AL

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Pridefinancial Services LP	Greenwood Village	CO
Prime Bank	Philadelphia	PA
Prime Bank	Houston	TX
Principal Mutual Life Ins Co	Des Moines	IA
Priority Mortgage Corporation	Holladay	UT
Procapital Funding Corporation	Bethesda	MD
Professional American Mort Institute Inc	Sunrise	FL
Professional Financial Group Inc	Auburn	WA
Professional Home Team Mortgag	Dallas	TX
Proficient Financial Services	Countryside	IL
Profile Bank FSB	Rochester	NH
Prosource Mortgage Corp	Avon	CO
Provident Savings Bank FA	Montebello	NY
Pt Ilta Karya Investment Inc	Hacienda Heights	CA
Public Service Credit Union	Detroit	MI
Pullman Bank and Trust	Chicago	IL
Pulse Savings Bank	South River	NJ
Quest Mortgage	Santa Fe	NM
R A Grantz Financial Inc	Schaumburg	IL
R and G Lending Inc	Cypress	CA
R M S Inc	Saint Peters	MO
Rainbow Services Company LLC	Washington	DC
Ramsey Bank	Cando	ND
RE Mortgage Group Inc	Anaheim Hills	CA
Realco Funding and Properties	Los Angeles	CA
Refco Mortgage-Financial Services Inc	Chicago	IL
Regency Bank	Fresno	CA
Regency Financial Corporation	Lake Worth	FL
Reliance Federal Savings Bank	Garden City	NY
Rengar Mortgage Inc	Downey	CA
Republic Bank California NA	Beverly Hills	CA
Republic Home Loan Corp	Los Gatos	CA
Republic Mortgage Funding Inc	Miami Lakes	FL
Republic National Bnk of Miami	Coral Gables	FL
Request Mortgage of Tulsa Inc	Tulsa	OK
Reserve Lending Network	Homewood	IL
Residential Funding Group	Tucker	GA
Residential Lending Professionals LLC	Sacramento	CA
Residential Mortgage Corporation	Las Vegas	NV
Resource Financial Services Inc	Anaheim Hills	CA
Resource One Consu Disc Co Inc	Langhorne	PA
Revird Corporation	Santa Fe Springs	CA
Richard and Mike's Calabasas Realty	Calabasas	CA
Richmond Bank	Richmond	IL
Riverside Home Mortgage	Provo	UT
Riviera Mortgage LLC	Atlanta	GA
RJ Financial Services Inc	Arlington Heights	IL
RKL Mortgage Service Inc	Newport Beach	CA
RLE Financial Corporation	Elk Grove	CA
Rock Island Bank	Rock Island	IL
Roseville First Natl Bank	Roseville	CA
Roussel Financial Mortgage Corp	Reno	NV
Royal American Bank	Inverness	IL
Royal Star Two Thousand Mtg	Boynton Beach	FL
RTM Group Inc	San Ramon	CA
Salomon Brothers Realty Corp	New York	NY
Samuel C Ennis	Hammond	IN
Sanford Barnette and Assoc Inc	Bossier City	LA
Savings Bank of Mendocino County	Ukiah	CA
Savings Mortgage and Loan Inc	Denver	CO
Scenic Mortgage Co	Chattanooga	TN
Seaboard Employees Credit Union	Jacksonville	FL
Seaboard Funding Group Inc	Covina	CA
Seascape Finance Inc	Vero Beach	FL
Security Federal Savings Bank	Logansport	IN
Security First Funding	Williamsburg	VA
Security Mortgage Company	Englewood	NJ
Security Mortgage Corporation	Jackson	MS
Security National Bank San Antonio	San Antonio	TX
Security State Bank	Polson	MT
Security State Mortgage	American Fork	UT

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
Select Mortgage Services LLC	Richmond	VA
Service First Mortgage Inc	Oxford	GA
Seven Eleven Funding Corp	Orange	CA
Sierra Mountain Mortgage Inc	Truckee	CA
Sierra National Bank	Tehachapi	CA
Silver Lake Mortgage	Everett	WA
Silverback Mortgage Inc	Los Angeles	CA
Skyview Credential Mortgage	Covina	CA
SMS Finance Incorporated	Kokomo	IN
SN and Associates Inc	Aiea	HI
Socal Financial Group Inc	San Diego	CA
South Bergen Savings and Loan Assn	Wood Ridge	NJ
South Equity Mortgage Corporation	Delray Beach	FL
South State Mortgage Inc	Alpharetta	GA
South States Mortgage Corp	Birmingham	AL
Southeast Bankers Mortgage Corporation	Miami Beach	FL
Southeastern Mortgage Brokers Inc	Alpharetta	GA
Southern Financial Mortgage Inc	Brentwood	TN
Southern Lakes Credit Union	Kenosha	WI
Southwest Lending LLC	Phoenix	AZ
Southwest Reserve Inc	Las Vegas	NV
Southwest State Bank	Windom	MN
Specialty Mortgage Services Corporation	Bedford	TX
Specprop Inc dba Vantage Mortgage Serv	Oceanside	CA
Spring Valley Bank	Wyoming	OH
ST Edmonds Federal SB	Philadelphia	PA
ST Louis Community Credit Union	ST Louis	MO
Star Mortgage Corporation	Austin	TX
Statewide Lending Center Inc	Coral Springs	FL
Sterling Lending Corporation	Baton Rouge	LA
Sterling Mortgage Group LLC	Loveland	CO
Sterling Savings Bank	Chicago	IL
Stoneridge Mortgage Corporation	San Diego	CA
Stratus Enterprises Inc	Bellevue	WA
Strongsville Savings Bank	Strongsville	OH
Summit Mortgage Services	Southfield	MI
Sun Group Enterprises LTC	Schuylerville	NY
Sun Mortgage Company Inc	Cherry Hill	NY
Sun Mortgage Consultants Inc	Fort Myers	FL
Suncoast Financial Mortgage	Chula Vista	CA
Sundial Mortgage Corporation	Juno Beach	FL
Sunstate Mortgage Inc	Daytona Beach	FL
Superior Service Mortgage Corp	Riverside	CA
Swiss Re Life and Health America Inc	New York	NY
Swissbanc Mortgage Corporation	Chicago	IL
Sydney Investments Inc	Redding	CA
T and F Mortgage Inc	El Cajon	CA
T G Mortgage Inc	Aliso Viejo	CA
Tennessee Mortgage Corporation	Lavergne	TN
Texas Financial Corporation	Austin	TX
Texas Homeplace Financial Corporation	New Braunfels	TX
The Co-Operative Bank	Roslindale	MA
The GM Group Inc	Dallas	TX
The-Trust Deed Corporation	Laguna Niguel	CA
Thompson Mortgage Services Inc	Bentonville	AR
Three Rivers Bank and Trust Co	Mckeesport	PA
Thunder Funding LTD Co	Albuquerque	NM
Time Deposits International Inc	Van Nuys	CA
TNT Financial Inc	Chino	CA
Tower Financial Group Inc	Cranston	RI
Tower Mortgage Inc	Bellevue	WA
Town and Country Mortgage Inc	Elk River	MN
Transcapital Mortgage LLC	Kirkland	WA
Treatment Capital Mortgage Inc	West Monroe	LA
Trident Services	St George	UT
Trinity Home Mortgage	Boise	ID
True Rate Mortgage	Layton	UT
Truong and Company Inc	Canoga Park	CA
Tutle Inc	Brooklyn	NY
Tyler Bank and Trust NA	Tyler	TX
U S E Community SVCS Group Inc	Downey	CA

TITLE 2 MORTGAGEES AND LOAN CORRESPONDENTS TERMINATED BETWEEN APRIL 1, 2000 AND MARCH 31, 2001—Continued

Name	City	State
US Savings Bank	Las Vegas	NV
Ultima Bank Minnesota	Fosston	MN
UMASS Five College Fed CR Un	Amherst	MA
Unified Resource Group LLC	Marietta	GA
Union Bank Benton	Benton	AR
Union Building Corp Detroit	Detroit	MI
Union Chartered Corporation	Oakland	CA
Union Labor Life Insurance Co	Washington	DC
United American Mortgage Co LLC	Cordova	TN
United Building Trades Fed Credit Union	Rapid City	SD
United California Lenders Corp	Aliso Viejo	CA
United Midwest Savings Bank	Degraff	OH
United Mortgage Company	Johnston	RI
United Mortgage Company of Idaho Inc	Boise	ID
United Mortgage Investors Inc	Miami	FL
United Mortgagee Inc	Virginia Beach	VA
University Credit Union	Orono	ME
US Bank Trust NA	San Francisco	CA
US Financial Inc	Altamontae Springs	FL
Vanguard Financial Company	Cincinnati	OH
Vanleeuwen Pye and Associates	San Diego	CA
Vasquez Mims and Associates Inc	San Diego	CA
Venture Mortgage LLC	Phoenix	AZ
Vermont Federal Credit Union	Burlington	VT
Vermont National Bank	Brattleboro	VT
Veteran Mortgage Inc	Mountain Lake Terr	WA
Vickery Mortgage Corporation	Montgomery	AL
Viking Bank	Moorhead	MN
Vineyard National Bank	Rancho Cucamonga	CA
Virgin Valley Credit Union	Mesquite	NV
Vista Capital Funding Inc	Bethesda	MD
Walden Federal Savings and Loan Assn	Walden	NY
Walden Savings Bank	Walden	NY
Wall Street Funding Group Inc	Rancho Cucamonga	CA
Wall Street Mortgage Group Inc	Boca Raton	FL
Washington Federal Savings Bank	Washington	PA
Watson Financial Inc	Scottsdale	AZ
Western Alliance Mortgage LP	Katy	TX
Western Bank	Alamogordo	NM
Westmark Mortgage Corporation	Boca Raton	FL
Westview Financial Co Inc	San Jose	CA
Westwind Mortgage Corp	Phoenix	AZ
Wholesale Financial Mortgage Corporation	Schamburg	IL
Wohletz Enterprises Inc	Kirkland	WA
Woodmont Mortgage Corp	Bethesda	MD
World Mortgage Corp	Boca Raton	FL
Worldwide Capital Corporation	Westchester	IL
Yampa Valley National Bank	Hayden	CO
Yorktown Homes	Fullerton	CA
Zata Inc	Westlake Village	CA

Dated: July 9, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner, Chairman Mortgagee Review Board.

[FR Doc. 01–18442 Filed 7–24–01; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: John E. Trupiano, Chesterfield, MI, PRT–045395

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Marion J. Bennett, Loganville, GA, PRT–045404

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Robert E. Fiss, Jr., Gilbertsville, PA, PRT–045479

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Columbus Zoo and Aquarium, Powell, OH, PRT–041943

The applicant request a permit to import 1.1 Asian elephants (*Elephas maximus*) from African Lion Safari, Cambridge, Ontario, Canada, for the purpose of enhancement of propagation of the species through captive breeding.

Applicant: Charles Paddock Zoo, Atascadero, CA, PRT–044526

The applicant request a permit to export 0.1 red-ruffed lemur (*Varecia variegata rubra*) to Crystal Garden Conservation Center, Victoria, British Columbia, Canada, for the purpose of enhancement of propagation of the species through captive breeding.

Applicant: Institute of Environmental and Human Health, Texas Tech University, Lubbock, TX, PRT–812795

The applicant requests the re-issuance of a permit to import wild-collected biological samples, non-viable eggs and salvaged whole carcasses of Morelet's crocodile (*Crocodylus moreletii*) from Belize for the purpose of scientific research. This notification covers activities conducted by the applicant over a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18).

Written data, comments, or requests for copies of these complete applications or requests for a public hearing on these applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: John D. Harris, Boonville, IN, PRT–045396

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Applicant: Michael E. Walker, Hesperia, CA, PRT–045478

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: July 13, 2001.

Monica Farris,

Senior Permits Biologist, Branch of Permits, Office of Management Authority.

[FR Doc. 01–18378 Filed 7–24–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Request for Information and Recommendations on Resolutions, Decisions, and Agenda Items for Consideration at the Twelfth Regular Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for information.

SUMMARY: This notice is a scoping document that solicits recommendations for resolutions, decisions, and agenda items for discussion at the twelfth regular meeting of the Conference of the Parties (COP12) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). We invite you to provide us with information and recommendations on possible resolutions, decisions, and agenda items for discussion at the upcoming meeting.

DATES: We will consider all information and comments received by September 24, 2001.

ADDRESSES: Send correspondence pertaining to resolutions, decisions, and agenda items to the Division of Management Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 700; Arlington, Virginia 22203, or via E-mail at: fw9ia_cites@fws.gov. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Division of Management Authority. Information on species listing issues or scientific issues pertaining to CITES is available from the Division of Scientific Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Room 750; Arlington, Virginia 22203, or via E-mail at: fw9ia_dsa@fws.gov.

FOR FURTHER INFORMATION CONTACT: Andrea Gaski, Chief, Division of Management Authority, Branch of CITES Operations, phone 703/358–2095, fax 703/358–2298, E-mail: fw9ia_cites@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES, is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may be threatened with extinction. These species are listed in Appendices to CITES, copies of which are available from the Division of Management Authority at the above address or from our Website at http://www.international.fws.gov/pdf/appendices.pdf. Currently, 154 countries, including the United States, are Parties to CITES. CITES calls for biennial meetings of the Conference of the Parties, which review its implementation, make provisions

enabling the CITES Secretariat in Switzerland to carry out its functions, consider amendments to the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any country that is a Party to CITES may propose amendments to Appendices I and II, resolutions, decisions, and/or agenda items for consideration by the other Parties.

This is our second in a series of **Federal Register** notices which, together with announced public meetings, provide you with an opportunity to participate in the development of the United States' negotiating positions for the twelfth regular meeting of the Conference of the Parties to CITES (COP12). We published our first such **Federal Register** notice on June 12, 2001 (66 FR 31686), and with it we requested information and recommendations on potential species amendments for the United States to consider submitting for discussion at COP12. Information on that **Federal Register** notice, and on species amendment proposals, is available from the Division of Scientific Authority at the above address. Our regulations governing this public process are found in 50 CFR §§ 23.31–23.39.

In our **Federal Register** notice of June 12, 2001, we announced that COP12 is scheduled to be held in November 2002, in Santiago, Chile. Once the CITES Secretariat notifies the CITES Parties of the exact dates when the meeting will be held, we will publish this information in a future **Federal Register** notice. We will also post that information on our Website, for your benefit.

Request for Recommendations on Resolutions and Agenda Items

Although we have not yet received formal notice of the provisional agenda for COP12, we invite your input on possible agenda items the United States could recommend for inclusion, or on possible resolutions and/or decisions of the Conference of the Parties that the United States could submit. Copies of the agenda for the last meeting of the Conference of the Parties (COP11) in Gigiri, Kenya, in April 2000, as well as copies of all resolutions and decisions of the Conference of the Parties currently in effect, are available from the Division of Management Authority at the above address. Copies of a list of species proposals adopted at COP11 are available from the Division of Scientific Authority at the above address. The results of COP11 with regard to species proposals, resolutions, and decisions, along with other information pertaining to COP11, are available on our Website at: http://international.fws.gov/cop11/cop11.html.

Observers

Article XI, paragraph 7 of CITES provides: ''Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) International agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) National non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located.

Once admitted, these observers shall have the right to participate but not to vote.''

National agencies or organizations within the United States must obtain our approval to participate in COP12, while international agencies or organizations must obtain approval directly from the CITES Secretariat. We will publish information in a future **Federal Register** notice on how to request approved observer status. A fact sheet on the process is posted on our Website at: http://international.fws.gov/pdt/ob.pdf.

Future Actions

The next regular meeting of the Conference of the Parties (COP12) is scheduled to be held in November 2002, in Santiago, Chile. We have developed a tentative U.S. schedule to prepare for that meeting. The United States must submit any proposals to amend Appendix I or II, or any draft resolutions, decisions, and/or agenda items for discussion at COP12, to the CITES Secretariat 150 days prior to the start of the meeting. In order to accommodate this deadline, we plan to publish a **Federal Register** notice approximately 10 months prior to COP12 announcing tentative species proposals, draft resolutions, draft decisions, and agenda items to be submitted by the United States, and to solicit further information and comments on them.

Approximately 9 months prior to COP12, we will hold a public meeting to allow for additional public input. Approximately 4 months prior to COP12, we will post on our Website an announcement of the species proposals, draft resolutions, draft decisions, and agenda items submitted by the United States to the CITES Secretariat. The deadline for submission of the proposals, draft resolutions, draft decisions and agenda items to the Secretariat is expected to be sometime around June 7, 2002.

Through a series of additional notices and Website postings in advance of COP12, we will inform you about preliminary negotiating positions on resolutions, decisions, and amendments to the Appendices proposed by other Parties for consideration at COP12, and about how to obtain observer status from us. We will also publish announcements of public meetings expected to be held approximately 9 months prior to COP12, and approximately 2 months prior to COP12, to receive public input on our positions regarding COP12 issues.

Author

This notice was prepared by Mark Albert, Division of Management Authority, under the authority of the U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: June 27, 2001.

Marshall P. Jones Jr.,

Director.

[FR Doc. 01–18559 Filed 7–24–01; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–416 and 731–TA–948 (Preliminary)]

Individually Quick Frozen Red Raspberries From Chile

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Chile of individually quick frozen red raspberries, provided for in subheading 0811.20.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Chile and sold in the United States at less than fair value (LTFV).

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Commencement of Final Phase Investigations

Pursuant to § 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules, upon notice from the Department of Commerce of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On May 31, 2001, a petition was filed with the Commission and Commerce by the IQF Red Raspberry Fair Trade Committee, Washington, DC, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of subsidized and LTFV imports of individually quick frozen red raspberries from Chile. Accordingly, effective May 31, 2001, the Commission instituted countervailing and antidumping duty investigations Nos. 701–TA–416 and 731–TA–948 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 6, 2001 (66 FR 30482). The conference was held in Washington, DC, on June 21, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on July 16, 2001. The views of the Commission are contained in USITC Publication 3441 (July 2001), entitled Individually Quick Frozen Red Raspberries from Chile: Investigations Nos. 701–TA–416 and 731–TA–948 (Preliminary).

Issued: July 20, 2001.

By the Order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–18561 Filed 7–24–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–460]

In the Matter of Certain Sortation Systems, Parts Thereof, and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 25, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Rapistan Systems Advertising Corp. and Siemens Dematic Corp., both of Grand Rapids, Michigan. A supplement to the complaint was filed on July 9, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sortation systems, parts thereof, and products containing same by reason of infringement of claims 1, 2, 3, 4, 8, 9, 13, 17, 18, 20, 22, 23, 24, 27, 29, 30, 33, 35, 36, 37, 39, 42, 43, 45, 46, 47, and 49 of U.S. Letters Patent 5,127,510. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *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.*

FOR FURTHER INFORMATION CONTACT: David H. Hollander, Jr., Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2746.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on July 19, 2001, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain sortation systems, parts thereof, or products containing same by reason of infringement of claims 1, 2, 3, 4, 8, 9, 13, 17, 18, 20, 22, 23, 24, 27, 29, 30, 33, 35, 36, 37, 39, 42, 43, 45, 46, 47, or 49 of U.S. Letters Patent 5,127,510 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—Rapistan Systems Advertising Corp., 425 Plymouth Avenue NE., Grand Rapids, Michigan 49505.

Siemens Dematic Corp., 507 Plymouth Avenue NE., Grand Rapids, Michigan 49505.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: Vanderlande Industries Nederland BV, Vanderlandelaan 2, Veghel 5466 RB, Netherlands.

Vanderlande Industries Inc., 1600 Parkwood Circle SE., #340, Atlanta, Georgia 30339–2119.

(c) David H. Hollander, Jr., Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

Issued: July 19, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–18431 Filed 7–24–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Notice of Information Collection Under Review; Reinstatement, with change, of a previously approved collection for which approval has expired; Violent Criminal Apprehension Program (VICAP) Crime Analysis Report.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

Public comments are encouraged and will be accepted until September 24, 2001. We request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the 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 agencies 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

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.

Comments and/or suggestions regarding the items(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Unit Chief Thomas C. Knowles, Supervisory Special Agent, VICAP, FBI Academy, Quantico, VA 22135.

Overview of this information collection:

(1) Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) Title of the Form/Collection: Violent Criminal Apprehension Program (VICAP) Crime Analysis Report.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: FD–676. Department of Justice, Federal Bureau of Investigation, Violent Criminal Apprehension Program Unit.

(4) Affected public who will be asked or required to respond, as well as brief abstract: Primary: State, Local, or Tribal Government. Brief Abstract: Collects data at crime scenes (e.g., unsolved murders) for analysis by VICAP staff of the FBI. Law enforcement agencies reporting similar pattern crimes will be provided information to initiate a coordinated multi-agency investigation to expedite identification and apprehension of violent criminal offenders (e.g., serial murderers).

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 10,000 respondents at an average of one hour per response.

(6) An estimate of the annual total public burden (in hours) associated with the collection: 10,000 total burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: July 20, 2001.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 01–18579 Filed 7–24–01; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1324]

Program Announcement for Missing and Exploited Children Nonprofit Organizations and Family Support Program

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, section 405(a), 42 U.S.C. 5776, requires the Administrator of OJJDP to make grants to and enter into contracts with public agencies or nonprofit private organizations to support research, demonstration, or service programs designed to educate parents, children, and community agencies in ways to prevent the abduction and sexual exploitation of children, to provide information to assist in the location and return of missing children, and to aid

communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children. OJJDP is publishing this program announcement to request applications for a competitive discretionary grant program, the Missing and Exploited Children Nonprofit Organizations and Family Support Program.

The purpose of the Missing and Exploited Children Nonprofit Organizations and Family Support Program is to improve, at the State and local levels, the quality, availability, and coordination of services provided to missing and exploited children and their families and to improve the capacity and capabilities of missing children nonprofit organizations. Until now, little attention has been given to the need to coordinate with local service providers and expand services for children and their families. There is currently no network of screened and trained volunteers to provide specialized assistance and advice to parents searching for their children. Furthermore, there are few agencies that are trained or equipped to provide mentoring services to families whose children have been abducted or illegally detained in a foreign country. Federal assistance is urgently needed to coordinate and assist in this problem.

DATES: Applications must be received by 5 p.m. ET on August 24, 2001.

ADDRESSES: All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *OJJDP Application Kit* from the Juvenile Justice Clearinghouse at 800–638–8736. The *Application Kit* is also available at OJJDP's Web site at www.ojjdp.ncjrs.org/grants/2000_app_kit/index.html. (See ''Format'' in this program announcement for instructions on application standards.)

FOR FURTHER INFORMATION CONTACT: Ronald C. Laney, Director, Child Protection Division, Office of Juvenile Justice and Delinquency Prevention, 202–616–3637. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Purpose

To provide ongoing oversight, support, and assistance to missing and exploited children nonprofit organizations (NPOs) to improve the quality of services for missing and exploited children and their families and to provide ongoing support and one-on-one assistance to families of children who have been exploited or abducted or who are otherwise missing.

Background

In 1984, Congress enacted Title IV of the JJDP Act, the Missing Children's Assistance Act, section 402, 42 U.S.C. 5771 *et seq.,* which found that each year thousands of children are abducted or removed from the control of a parent having legal custody without such parent's consent, under circumstances that immediately put them in grave danger. Many of these children are never reunited with their families, are at great risk or both physical harm and sexual exploitation, and in many cases, parents and local law enforcement have neither the resources nor the expertise to mount expanded search efforts. Frequently, law enforcement quickly exhausts all leads in missing children cases and requires assistance from communities in which the child may be located.

For the purposes of the JJDP Act, the term ''missing children'' refers to children who have been abducted by either a family or non-family member and includes children who have been abducted within the United States and those who have been abducted from the United States and taken to or illegally retained in a foreign country. The term ''child exploitation'' refers to any criminal activity that focuses on children as sexual objects and includes child abuse, child pornography, and prostitution.

Title IV of the JJDP Act established the Missing and Exploited Children's Program (MECP) within OJJDP. Under MECP, OJJDP is responsible for coordinating Federal missing and exploited children activities, providing a national resource center and clearinghouse, and supporting research, training, technical assistance, and demonstration programs to enhance overall response to missing children and their families. OJJDP's MECP has made significant advances in the course of meeting its responsibilities to provide services to children, parents, educators, prosecutors, and interested persons working on child safety issues.

For purposes of this solicitation, OJJDP proposes to continue its concentration on programs that are national in scope and that promote awareness of and enhance the Nation's response to missing and exploited children and their families. This solicitation conforms to Title IV, Missing Children's Act provisions as they are applied through the JJDP Act.

Since its inception, OJJDP's MECP has supported an aggressive program of research and program development focusing on issues related to missing, exploited, and abducted children. In 1984, the National Resource Center and Clearinghouse on Missing Children was established under the National Center for Missing and Exploited Children (NCMEC). Since that time, OJJDP has funded the design, development, and implementation of numerous model projects, approaches, and demonstration efforts that address missing and exploited children issues.

OJJDP has made a concerted effort to solicit input from the field about needs, issues, and concerns related to missing and exploited children. In FY's 1994 and 2001, OJJDP conducted a series of focus groups consisting of victim parents; staff from Federal, State, and local agencies; and representatives of national, State, and local nonprofit organizations. Participants identified program priorities and gaps in services that required action by OJJDP. One of the outcomes of this process was the recognition that parents of missing children often do not receive the critical support or assistance needed in their time of crisis. In response to this concern, OJJDP—in collaboration with victim parents—developed a publication for parents, When Your Child Is Missing: A Family Survival Guide, and funded a parent-to-parent mentoring program to provide intense and immediate services and support to families of missing children.

Additionally, OJJDP has funded research projects to improve the understanding of missing and exploited children issues and improve the handling and response to these issues. The National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children in America (NISMART) (Office of Juvenile Justice and Delinquency Prevention, 1990) was the first national study to provide reliable data about the numbers and types of missing child cases and clarify the types of cases and situations that make up the ''missing children'' population. Results of the second NISMART study, which will be released later this year, will provide more up-to-date critical information about the dynamics of missing child cases, the psychological impact of abduction on children and families, and the aftermath of abduction when a missing child comes home. (See Hanson, 2000.)

Since 1975, missing and exploited children NPOs have been established throughout the country to provide

services and support to children who have been victimized or who are missing and to their families. Today it is estimated that there are approximately 100 missing and exploited children NPOs. Although the existence of these NPOs spurred increased services for families and children, there were no mechanisms in place to monitor NPOs to ensure the quality and credibility of services.

In 1994, OJJDP awarded a competitive grant to the National Victims Center to develop a national nonprofit organization to help coordinate and monitor the activities of NPOs. This program established the Association of Missing and Exploited Children Organizations (AMECO). Since that time, AMECO has established a process to certify credible NPOs; has held annual national conferences to provide training and skill building for NPOs and State missing children clearinghouses; and has established a system to improve communication and collaboration among NPOs, State missing children clearinghouses, law enforcement, NCMEC, and the U.S. Department of Justice.

The award period for the National Victims Center grant ended in 1995. OJJDP is publishing this program announcement to seek applications for continuing the work that has been carried out by AMECO over the past 6 years.

Goal

The goal of the Missing and Exploited Children Nonprofit Organizations and Family Support Program is to support a national nonprofit association to (1) provide oversight to a minimum of 25 missing and exploited children NPOs, and (2) develop a mentoring program that provides one-on-one support to parents of missing children.

Objectives

- To provide management oversight, assistance, and support to membership organizations for missing and exploited children NPOs.
- To create a system for certifying credible missing and exploited children NPOs in order to ensure that high quality services are provided to children and their families.
- To coordinate the activities and services of missing and exploited children NPOs nationwide through networking, newsletters, and information sharing.
- To serve as a repository of information with the ability to operate an Internet Web site including a computer-based system of communication to disseminate information to NPOs, families, children, law enforcement agencies, and other organizations that serve missing and exploited children and their families.
- To expand networking opportunities for missing and exploited children NPOs.
- To increase the capacity and skills of missing and exploited children NPOs through training and technical assistance.
- To create and publicize a parent-to-parent mentoring program for families of missing children.
- To recruit, train, and manage victim parent volunteers to serve as mentors.
- To ensure that NPOs collaborate and cooperate with Federal, State, and local agencies and other organizations that serve missing and exploited children and their families.
- To enhance and improve the ability of missing and abducted child serving agencies and organizations to respond to issues related to cases of missing and exploited children.

Program Strategy

One cooperative agreement will be made for a 4-year project period. The purpose of this solicitation and resulting cooperative agreement is to establish a mechanism for the provision of all technical support necessary for the management and delivery of this program. This includes program design and administration, program management, and fiscal support necessary to sustain those services required for the Missing and Exploited Children Nonprofit Organizations and Family Support Program.

The applicant must demonstrate proven experience and capability to provide timely, relevant professional program continuity for the design, development, delivery, and maintenance of this program. The applicant must demonstrate the ability to perform the tasks outlined in the ''Objectives'' section above; enlist, train, and manage the professional and volunteer staff; and provide continuity of services.

In addition to addressing the objectives above, the applicant must also include in its application a detailed task plan to justify its resource allocation (staff and funds) based on the level of effort described in this solicitation and develop an efficient and effective mechanism for managing the services and activities of this program.

Eligibility Requirements

OJJDP invites applications from public and private nonprofit agencies, organizations, institutions, and individuals. Joint applications from two or more eligible applicants are welcome; however, one applicant must be clearly indicated as the primary applicant (for correspondence, award, and management purposes) and the others indicated as coapplicants. In particular, applicants must have strong experience in the following areas: (1) Management and oversight of a national missing and exploited children NPO organization, (2) development and management of a parent mentoring program that uses parent volunteers, and (3) national experience and broad recognition in administering programs and activities that access resources from Federal, State, and local agencies and organizations that serve missing and exploited children.

As outlined in the Missing and Exploited Children Assistance Act of 1984, as amended (42 U.S.C 5775, section 405), priority will be given to applicants who ''have demonstrated or demonstrate ability in (A) locating missing children or locating and reuniting missing children with their legal custodians; (B) providing other services to missing children or their families * * *.'' Additional consideration will be given to applicants who ''substantially utilize volunteer assistance.''

Applications from more than one organization must set forth the relationships among the parties. As a general rule, organizations that describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered coapplicants. In the event of a coapplicant submission, one coapplicant must be designated as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other coapplicant. Under this arrangement, each organization must agree to be jointly and severally responsible for all project funds and services. Each coapplicant must sign Standard Form (SF) 424, Application for Federal Assistance,[1] and indicate acceptance of the conditions of joint and several responsibility with the other coapplicant.

Applications that include noncompetitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $100,000.

[1] This form and other required forms can be found in the *OJJDP Application Kit.* To obtain a copy of the Kit, call the Juvenile Justice Clearinghouse at 800–638–8736 or send an e-mail request to puborder@ncjrs.org. The Kit is also available online at www.ojjdp.ncjrs.org/grants/2000_app_kit/index.html.

The contractor may not be involved in the development of the statement of work. The applicant must provide sufficient justification for not competing the portion of work proposed to be contracted.

Selection Criteria

Applicants will be evaluated and rated by a peer review panel according to the selection criteria outlined below. The project narrative must make clear and logical connections among the components listed below. It is further recommended that applications be organized and presented in a way that enables application reviewers to evaluate the proposal in terms of the selection criteria outlined below.

Issues To Be Addressed (20 Points)

The application must include a clear and concise discussion of the issues related to the management and oversight of services and resources for missing and exploited children NPOs and victim parents. The applicant must identify and discuss the most important topics that will need to be addressed in designing and managing such a program. The discussion should reflect the applicant's understanding of the need for undertaking this initiative, the anticipated challenges that face the Missing and Exploited Children Nonprofit Organizations and Family Support Program and ways to address those issues, and the potential long-term impact of this program on children, families, and agencies and organizations that serve them.

Goals and Objectives (10 Points)

The applicant must describe how it will address the stated goals and each of the objectives outlined in the solicitation. The goals and objectives must relate to the issues to be addressed. Any significant modification of the stated goals and objectives should be clearly justified and the implications of any variation carried through in the rest of the proposal. Objectives should specify clearly defined, measurable tasks that will enable the applicant to achieve the goals of the project.

Project Design (25 Points)

Applicants must present a well-developed project design that clearly delineates specific activities, people and other resources involved, and timelines for accomplishing the tasks outlined in the ''Program Strategy'' section above. The narrative must discuss how and when major activities for each task will be accomplished and how these tasks will build on each other to reach the project's goals and objectives. A time task chart should be included in appendix A of the application.

Management and Organizational Capability (35 Points)

The applicant must include a discussion of how it will coordinate and manage the activities of this program in a way that promises to achieve the stated goals and objectives. The applicant must clearly define the roles and responsibilities of key project staff and volunteers or other staff members. The applicant must describe the knowledge and experience of key staff relevant to this initiative and any organizational experience demonstrating its ability to accomplish the project objectives and to work with experts from diverse disciplines and perspectives to accomplish a common goal.

The application must demonstrate fully the required organizational and staff experience that qualifies the applicant to deliver technical support services as described in this solicitation. Applicants must demonstrate, in addition to program knowledge and support experience, programmatic and fiscal management capabilities to implement this program. The applicant must demonstrate direct experience in the following areas: (1) Administering, managing, and overseeing missing and exploited children NPOs; (2) recruiting, training, and supervising parent volunteers; (3) providing mentoring services and support to victim families; (4) working with other national missing and exploited children organizations, including NCMEC; (5) developing bylaws, charters, and certification procedures for missing and exploited children NPOs; (6) managing a national organization serving missing and exploited children NPOs; and (7) accessing, coordinating, and linking with Federal, State, and local resources for missing and exploited children and their families.

An organizational chart and résumés of proposed staff must be included in appendix B.

Budget (10 Points)

Applicants must provide a proposed budget that is complete, detailed, reasonable, allowable, and cost effective in relation to the activities to be undertaken during the project period. A detailed budget narrative should be included as appendix C and should conform to the guidelines in the *OJJDP Application Kit.* Applications must also conform to Federal requirements with respect to travel, equipment, and procurement policies.

Format

A program narrative, not to exceed 30 pages (excluding forms, table of contents, project abstract, certificates of confidentiality, statement about the coordination of Federal efforts, assurances, and appendix) must be submitted on 8½- by 11-inch paper, double-spaced on one side of the paper in a standard 12-point font. The narrative should be preceded by a one-page project abstract, which must also be submitted on 8½- by 11-inch paper, double-spaced on one side of the paper in a standard 12-point font. The abstract must not exceed 250 words. The double-spacing requirement applies to all parts of the program narrative and the project abstract, including lists, bulleted items, tables, and quotes. A table of contents is also required.

Appendix A must contain the project's timeline with dates for initiation and completion of critical project tasks and products. Appendix B must contain an organizational chart and résumés of proposed staff. Appendix C must contain the detailed budget narrative. Appendix D must contain the statement of coordination of Federal efforts.

These standards are necessary to maintain fair and uniform standards among all applicants. If the application does not conform to these standards, OJJDP will deem the application ineligible for consideration.

Award Period

This project will be funded for 4 years, in 1-year intervals. Funding after this first year depends on performance of the grantee, availability of funds, and other criteria established at the time of the award.

Award Amount

Up to $375,000 is available for the first year of this project.

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number is 16.543. The CFDA number is required on SF–424, Application for Federal Assistance. SF–424 is included in the *OJJDP Application Kit,* which can be obtained by calling the Juvenile Justice Clearinghouse at 800–638–8736 or sending an e-mail request to puborder@ncjrs.org. The kit is also available online at www.ojjdp.ncjrs.org/grants/2000_app_kit/index.html.

Coordination of Federal Efforts

To encourage better coordination among Federal agencies in addressing State and local needs, DOJ is requesting applicants to provide information on the

following: (1) Active Federal grant award(s) supporting this or related efforts, including awards from DOJ; (2) any pending application(s) for Federal funds for this or related efforts; and (3) plans for coordinating any funds described in items (1) or (2) with the funding sought by this application.

For each Federal award, applicants must include the program or project title, the Federal grantor agency, the amount of the award, and a brief description of its purpose. This statement of coordination of Federal efforts should be placed in appendix D. Include in appendix E a list of authors (by section) of this proposal and indicate whether this proposal or portions of it have been submitted to other Federal agencies for funding.

The term ''related efforts'' is defined for these purposes as one of the following:

- Efforts for the same purpose (i.e., the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).
- Another phase or component of the same program or project (e.g., to implement a planning effort funded by other Federal funds or to provide a substance abuse treatment or education component within a criminal justice project).
- Services of some kind (e.g., technical assistance, research, or evaluation) to the program or project described in the application.

Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, Maryland 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted.

Note: In the lower left-hand corner of the envelope, the applicant must clearly write ''Missing and Exploited Children Nonprofit Organizations and Family Support Program.''

Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are received by 5 p.m. EDT on August 24, 2001.

Contact

For further information, contact Ron Laney, Director, Child Protection Division, OJJDP, at 202–616–7323, or send an e-mail inquiry to laney@ojp.usdoj.gov.

References

Hanson, L. 2000. *Second Comprehensive Study of Missing Children.* Bulletin. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Office of Juvenile Justice and Delinquency Prevention. 1990. *Missing, Abducted, Runaway, and Thrownaway Children in America, First Report: Numbers and Characteristics, National Incidence Studies.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Related Readings

American Bar Association, Center on Children and the Law. 1993. *Obstacles to the Recovery and Return of Parentally Abducted Children.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Johnston J.R., and Girdner L. 2001. *Family Abductors: Descriptive Profiles and Prevention Interventions.* Bulletin. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Dated: July 19, 2001.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–18584 Filed 7–24–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed new collection of a Work-Flex State Plan. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before September 24, 2001.

ADDRESSES: Chuck Welborn, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–4659, Washington, DC 20210. Telephone: (202) 693–3358 (this is not a toll-free number). Internet address: *cwelborn@doleta.gov, Fax: (202) 693–3255.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 192 of the Workforce Investment Act of 1998 (WIA), Public law 105–220, permits States to apply for a workforce flexibility (Work-Flex) waiver authority to implement reforms to their workforce investment systems in exchange for program improvements. The Act provides that the Secretary may grant Work-Flex waiver authority for a period of up to five years pursuant to a Work-Flex Plan submitted by a State.

Under Work-Flex, Governors are granted the authority to approve requests submitted by their local areas to waive certain statutory and regulatory provisions of WIA Title I programs. States may also request from the Secretary waivers of certain requirements of the Wagner-Peyser Act (sections 8–10) and certain provisions of the Older Americans Act applicable to State agencies that administer the Senior Community Service Employment Program (SCSEP).

The intent of the Work-Flex provision is to authorize States and Local Areas the operational flexibility they need to improve employment and training productivity for adult, dislocated, and youth populations. One of the underlying principles of Work-Flex is that it will result in improved performance outcomes for persons served and that waiver authority will be granted in consideration of improved performance.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

• Enhance the quality, utility, and clarify of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Work-Flex Plan describes the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of the statutory and regulatory requirements applicable under Title I of WIA; the requirements that are likely to be and proposed to be waived by the State under the plan; the outcomes to be achieved by the waiver authority; special accountability measures to be taken; and the public review and comment process. In an effort to reduce the paperwork burden on States the Department has limited the size of the Work-Flex Plan to ten pages, exclusive of necessary attachments. A State granted Work-Flex authority is required to submit quarterly reports consisting of 10 items which summarize waiver activities in the State.

Type of Review: New.

Agency: Employment and Training Administration.

Title: Work-Flex State Plan.

OMB Number: 1205–0NEW.

Record Keeping: Consistent with 29 CFR 97.42, records and supporting documentation should be retained for three years on a Federal fiscal year basis. The retention period for quarterly reports associated with a fiscal year starts on the date the State submits its last quarterly report for that fiscal year. The retention period for the State Work-Flex Plan starts on the last day of the fiscal year for which it was initially approved or subsequently modified, whichever is later.

Affected Public: State and Local Governments.

Form: N/A.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response (in hours)	Burden hours
State Plan	5	Annually	5	160	800
Quarterly Report	5	Quarterly	20	8	160
Totals			25		960

Total Burden Cost (operating/maintaining): $21,427.

Comments submitted in response to this comment request will be summarized and or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 5, 2001.

Shirley M. Smith,

Administrator, Office of Adult Services.

Work-Flex State Plan Instructions

States requesting designation as a Work-Flex State must submit a Work-Flex Plan which includes descriptions of:

a. The process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under Title I of WIA, including provisions for public review and comment on local area waiver applications.

b. The statutory and regulatory requirements of Title I that are likely to be waived by the State under the plan.

c. The requirements applicable under sections 8 through 10 of the Wagner-Peyser Act that are proposed to be waived, if any.

d. The statutory and regulatory requirements of the Older Americans Act of 1965 applicable to State agencies on aging with respect to administration of the Senior Community Service Employment Program (SCSEP) that are proposed to be waived, if any.

e. The outcomes to be achieved by the waiver authority including, where appropriate, revisions to adjusted levels of performance including in the State or Local Plan under Title I of WIA.

f. Special measures (in addition to current procedures) to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

g. Prior to submitting a Work-Flex Plan to the Secretary for approval, the State must provide to all interested parties and to the general public adequate notice and a reasonable opportunity for comment on the waivers proposed to be implemented. The plan should describe the process used for ensuring meaningful public comment. Include a description of the Governor's and the State Workforce Investment Board's involvement in drafting, reviewing and commenting on the plan. Describe actions taken to collaborate in the development of the State Work-Flex Plan with local chief elected officials, local workforce investment boards and youth councils, the business community, (including small businesses), labor organizations, educators, vocational rehabilitation agencies, and other interested parties, such as service providers, welfare agencies, community-based organizations, transportation providers, and other stakeholders.

Work-Flex Quarterly Report Instructions

Report for each waiver granted:

1. Waiver # (assigned by State)
2. Date received
3. Date granted
4. Local Area(s) requesting waiver
5. Purpose (brief statement)
6. Regulation/statute affected

Summary (year-to-date):

1. # of waivers granted
2. # of waivers denied
3. # of waivers pending
4. Total waivers received

[FR Doc. 01–18577 Filed 7–24–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection: Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden

conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506 (c)2(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the Interstate Arrangement For Combining Employment and Wages, ETA 586.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 24, 2001.

ADDRESSES: Mary E. Montgomery, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Room S–4516, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 693–3217 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 3304(a)(9)(B), of the Internal Revenue Code (IRC) of 1986, requires States to participate in an arrangement for combining employment and wages covered under the different State laws for the purpose of determining unemployed workers' entitlement to unemployment compensation. The Interstate Arrangement for Combining Employment and Wages (CWC), promulgated at 20 CFR part 616, requires the prompt transfer of all available employment and wages between States upon request. The Benefit Payment Promptness Standard, 20 CFR part 640, requires the prompt payment of unemployment compensation including benefits paid under the CWC arrangement. The ETA 586 report provides the ETA/Office of Workforce Security with information necessary to measure the scope and effect of the CWC program and monitor the performance of each State in responding to wage transfer requests and the payment of benefits.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

This information is necessary in order for ETA to analyze program performance, know when program performance action plans are needed and to target technical assistance resources. Without this report, it would be impossible for the ETA to identify claims and benefit activity under the CWC program and carry out the Secretary's responsibility for oversight.

Type of Review: Extension without change.

Agency: Employment and Training Administration.

Title: Interstate Arrangement for Combining Employment and Wages.

OMB Number: 1205–0029.

Agency Number: ETA 586.

Recordkeeping: 3 years.

Affected Public: State Government.

Cite/Reference/Form: ETA Handbook No. 401, ETA 586.

Total Respondents: 53.

Frequency: Quarterly.

Total Responses: 212.

Average Time per Response: 4 hours.

Estimated Total Burden Hours: 848.

Total Burden Cost (capital/startup): N/A.

Total Burden Cost:

Form	Respondents	Per year	Hours per response	Burden hours
ETA 586	53	212	4 hours	848

Average number of responses per respondent: 4.

Average burden hour per response: 4 hours.

With an average of $20 per hour for State salaries and 848 hours per year, we estimate the annual burden cost to be $16,960.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 13, 2001.

Cheryl Atkinson,

Director, Office of Income Support.

[FR Doc. 01–18578 Filed 7–24–01; 8:45 am]

BILLING CODE 4510–30–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. Kentucky May Coal Company

[Docket No. M–2001–063–C]

Kentucky May Coal Company, 1045 Arnold Fork Road, Kite, Kentucky 41828 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) to its Preparation Plant (I.D. No. 15–17338) located in Knott County, Kentucky. The petitioner proposes to fill its Refuse Disposal Fill ''A'' with refuse generated from its preparation plant in Arnold Fork Kentucky. The petitioner states that Refuse Fill ''A'' is a combined fill being constructed by the structural shell method, and that proposed modifications to Fill ''A'' to raise the proposed top of the Fill from elevation 1700 feet to elevation 1750 feet have

been submitted to the Barbourville Regional Office for review and approval. The petitioner submits this petition to supplement the modifications since the proposed top of the Fill will now be above an abandoned underground mine face up No. 1, an underground mining operation in the Hazard No. 4 coal Seam that is currently backfilled, and for face-up No. 2 that is constructed for the same mine and also backfilled and the Coal Seam dips toward face-up No. 2. For this reason, a four inch P.V.C. Pipe has been installed in the lowest entry of face-up No. 2 during backfilling operations to prevent the impoundment of water in the old mine works. The petitioner has outlined in this petition specific procedures that would be followed to implement its proposed alternative method. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. DLR Mining, Inc.

[Docket No. M–2001–064–C]

DLR Mining, Inc., 3065 Airport Road, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Nolo Mine (I.D. No. 36–08850) located in Indiana County, Pennsylvania. The petitioner requests a modification of the existing standard to permit belt air to be used to ventilate a working section or sections. The petitioner proposes to install carbon monoxide sensors as an early warning fire detection system in all belt entries used to course air through the belt entry to ventilate active working places. The petitioner states that the sensors would be capable of providing both visual and audible alarm signals. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Consol Pennsylvania Coal Company

[Docket No. M–2001–065–C]

Consol Pennsylvania Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.312(c) and (d) (main mine fan examinations and records) to its Enlow Fork Mine (I.D. No. 36–07416) located in Greene County, Pennsylvania. The petitioner proposes to test automatic closing door(s) and the automatic fan signal device at least every 31 days without shutting down the fan and without removing miners from the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Branham & Baker Underground Corp.

[Docket No. M–2001–066–C]

Branham & Baker Underground Corp., P.O. Box 1409, Pikeville, Kentucky 41502 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 Mine #23 (I.D. No. 15–18368) located in Pike 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.

5. Long Fork Development, Inc.

[Docket No. M–2001–067–C]

Long Fork Development, Inc., P.O. Box 480, Lovely, Kentucky 41231 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 No. 6 Mine (I.D. No. 15–18385) located in Johnson 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 application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. Energy West Mining Company

[Docket No. M–2001–068–C]

Energy West Mining Company, P.O. Box 310, 15 North Main, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (weekly examination) to its Deer Creek Mine (I.D. No. 42–00121) located in Emery County, Utah. Due to deteriorating roof conditions, deep water, and high roof through the area, the petitioner requests a modification of the existing standard to establish evaluation points instead of traveling an area from the top of the Cowin Raise for a distance of approximately three hundred (300) feet inby the intake air course. The petitioner proposes to establish three input evaluation points and three crosscuts outby the top of the Cowin Raise and to have an examiner check the evaluation points to determine that air is moving in the proper direction; and establish one output evaluation point at the bottom of the Cowin Raise and have the examiner determine that air is moving in the proper direction and take an air reading, and record the date, time, and his/her initials at evaluation point, and record the air reading in a weekly examination book. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. Consolidation Coal Company

[Docket No. M–2001–069–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 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 Buchanan No. 1 Mine (I.D. No. 44–04856) located in Buchanan County, Virginia. The petitioner proposes to use high-voltage (4,160-volt) cables inby the last open crosscut. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Consolidation Coal Company

[Docket No. M–2001–070–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.804(a) (underground high-voltage cables) to its Buchanan No. 1 Mine (I.D. No. 44–04856) located in Buchanan County, Virginia. The petitioner proposes to use a high-voltage (4,160-volt) cable with an internal ground check conductor smaller than #10 A.W.G. as part of its longwall mining system. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. American Energy Corporation

[Docket No. M–2001–071–C]

American Energy Corporation, P.O. Box 5, Alledonia, Ohio 43902 has filed a petition to modify the application of

30 CFR 75.804(a) (underground high-voltage cables) to its Century Mine (I.D. No. 33–01070) located in Belmont County, Ohio. The petitioner proposes to use a high-voltage cable with an internal ground check conductor smaller than No. 10 A.W.G as part of its longwall mining system. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

10. American Energy Corporation

[Docket No. M–2001–072–C]

American Energy Corporation, P.O. Box 5, Alledonia, Ohio 43902 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 Century Mine (I.D. No. 33–01070) located in Belmont County, Ohio. The petitioner proposes to use high-voltage (4,160-volt) cables inby the last open crosscut. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

11. Mettiki Coal, LLC

[Docket No. M–2001–073–C]

Mettiki Coal, LLC, 293 Table Rock Road, Oakland, Maryland 21550 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 Mettiki Mine (I.D. No. 18–00621) located in Garrett County, Maryland. The petitioner proposes to use high-voltage (2,400-volts) on its longwall face conveyor circuits and its shearer circuits when new longwall equipment is installed and has been inspected by MSHA. The petitioner states that a request will be made to revoke its previously granted petition, docket number M–98–032–C, when or if this petition is granted. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

12. San Juan Coal Company

[Docket No. M–2001–074–C]

San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421 has filed a petition to modify the application of 30 CFR 75.1726(a) (performing work from a raised position; safeguards) to its San Juan South Mine (I.D. No. 29–02170) and San Juan Deep Mine (I.D. No. 29–02201) located in San Juan County, New Mexico. The petitioner requests a modification of the existing standard to permit the use of modified scoops to provide an elevated work platform for miners at the San Juan South Mine and the San Juan Deep Mine. 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 August 24, 2001. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 13th day of July 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 01–18448 Filed 7–24–01; 8:45 am]

BILLING CODE 4510–43–U

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before September 10, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and

of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Fitzsimons Army Medical Center (N1–AU–00–2, 5 items, 5 temporary items). Master file, inputs, and outputs of the Fitzsimons Hospital Information System, an electronic information system pertaining to in-patient and out-patient medical treatment of military and civilian personnel. Also included are associated electronic indexes. Data in the system includes patient's name, social security number, reason for admission, laboratory reports, prescriptions, and discharge information. Microfiche outputs and indexes are proposed for a 50 year retention period.

2. Department of the Army, Agency-wide (N1–AU–00–22, 3 items, 2 temporary items). Inputs and backup materials relating to quarterly reports submitted by Army to the Defense Department concerning the propriety of intelligence activities, including electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of the consolidated report Army submits are proposed for permanent retention.

3. Department of the Army, U.S. Army Europe (N1–AU–01–16, 2 items, 2 temporary items). Master file and outputs of the Vehicle Registry Inquiry Network, an electronic information system used to maintain accountability of service members' privately owned vehicles and firearms. The system includes such information as vehicle identification data, firearm registrations, and data concerning the service member, including name, rank, social security number, date of birth, unit assignment, and traffic offenses.

4. Department of the Army, Agency-wide (N1–AU–01–25, 11 items, 11 temporary items). Records relating to radiation safety, including training materials, radiation inspection files, radiation incident cases, material licensing records, operating logs, and decommissioning records. Also included are electronic copies of documents created using electronic mail and word processing. Most of the series included in this schedule were previously approved for disposal and are proposed for a longer retention period. Among these records are radiation operating logs, licensing files, radiation source accounting files, and radiation incident cases, which will be retained for 75 years.

5. Department of the Army, Agency-wide (N1–AU–01–28, 2 items, 2 temporary items). Files pertaining to complaints and investigations of non-government owned off-post housing. Included are such records as complaints from military personnel and owners or operators of housing facilities, investigative data, and electronic copies of documents created using electronic mail and word processing.

6. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–00–6, 10 items, 6 temporary items). Records related to aeronautical surveying and charting of airports and the configurations of coastlines of the United States, including digital distribution copies of aerial film, survey field files and charts for aeronautical surveys, survey project files for photogrammetric coastal surveys, and scanned images of photogrammetric descriptive reports. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of original aerial film negatives and related finding aids, airport obstruction charts and data sheets, and photogrammetric descriptive reports.

7. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–3, 4 items, 3 temporary items). Records of public advisory committees consisting of working files, which include forms and records relating to administrative matters, and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of records relating to meetings, official speeches, final reports, and other files relating to the accomplishments of advisory committees.

8. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–4, 6 items, 6 temporary items). Electronic input data, paper reports, electronic outputs, master data files, and backup files associated with the Electronic Filing System. This system is used to submit utility patent applications, biosequence listings, and pre-grant publication resubmissions. Paper copies of outputs are filed in patent case files and were previously approved for permanent retention.

9. Department of Defense, Office of the Inspector General (N1–509–00–7, 28 items, 23 temporary items). Records relating to internal audits, audit follow-up, and routine audit and audit oversight projects. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of files relating to audit planning, policies and procedures, and significant audit oversight projects. Recordkeeping copies of files relating to significant audits were previously approved for permanent retention.

10. Department of Defense, Defense Threat Reduction Agency (N1–374–01–1, 14 items, 8 temporary items). Records relating to treaty-related inspection activities, including weekly inspection reports of continuous monitoring sites, operations center logs of activities, copies of intelligence reports received from other agencies, notifications of impending inspections, equipment monitoring and certification files, and support facilities compliance plans. Also included are electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of files relating to site inspections, continuous monitoring operations, and observation missions are proposed for permanent retention.

11. Department of Defense, Defense Threat Reduction Agency (N1–374–01–2, 6 items, 2 temporary items). Chemical and biological project oversight case files, including electronic copies of documents created using electronic mail and word processing. Records document the agency's role in overseeing chemical-biological defense activities carried out by the military services. Proposed for permanent retention are records relating to chemical and biological counter-terrorism activities.

12. Department of the Navy, Agency-wide (N1–NU–01–3, 19 items, 19 temporary items). Records relating to security matters accumulated at the operating level. Records relate to such matters as access to classified and

unclassified records, the use of security containers, classified document receipt and destruction, courier authorizations, security directives management, and security surveys and inspections. Also included are electronic copies of records created using electronic mail and word processing. Most of the items in this schedule were previously approved for disposal and are proposed for an increased retention period. Records relating to overall security policies and procedures accumulated by higher echelon agency offices were previously approved for permanent retention.

13. Department of the Navy, Agency-wide (N1–NU–01–4, 9 items, 9 temporary items). General administration and management records relating to waivers and exceptions, additional duty designations, and agreements made by agency components covering payroll, logistical, and other support services. Also included are electronic copies of records created using electronic mail and word processing.

14. Department of the Navy, Agency-wide (N1–NU–01–5, 3 items, 3 temporary items). Espionage hotline records. Included are correspondence, preliminary inquiries, sound recordings, and memoranda of telephone conversations relating to information received by the Naval Criminal Investigative Service espionage hotline but not warranting referral. Also included are electronic copies of records created using electronic mail and word processing. Hotline records warranting referral are filed with counterintelligence investigations and reports case files that were previously scheduled for long-term retention in the case of files lacking historical value and permanent retention in the case of files of historical significance.

15. Department of State, Bureau of European Affairs (N1–59–01–14, 11 items, 6 temporary items). Records of the Office of the Special Representative of the President and the Secretary of State for Holocaust Issues, including files covering such administrative topics as arrangements for security and translator services, extra copies of briefing books and publications, and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of all reports and publications produced by the office as well as policy files.

16. Department of State, Bureau of Finance and Management Policy (N1–59–01–8, 41 items, 41 temporary items). Records accumulated by the Office of International Cooperative Administrative Support (ICASS) relating to sharing common administrative support costs overseas. Files relate to such matters as budgeting, briefings, invoices, allotments, vehicle waiver requests, awards, training, and software development. Also included are subject files of the ICASS Director and Deputy Director, handbooks containing policies and procedures, files of the ICASS Executive Board and the ICASS Working Group, and a database that is used for billing participating agencies for services. Also included are electronic copies of documents created using electronic mail and word processing.

17. Federal Emergency Management Agency, Office of Congressional and Legislative Affairs (N1–311–01–1, 2 items, 1 temporary item). Electronic copies of documents created using electronic mail and word processing that relate to bills pertaining to the agency's enabling legislation. Recordkeeping copies of these files are proposed for permanent retention.

18. Federal Retirement Thrift Investment Board, Office of Benefits and Investments (N1–474–00–6, 4 items, 4 temporary items). Files pertaining to Thrift Savings Plan management reports, including working papers, background materials, reports, and electronic copies created using word processing, electronic mail, data bases, and spreadsheet applications. Recordkeeping copies of these reports were previously approved for permanent retention.

19. National Archives and Records Administration (N1–GRS–01–1, 21 items, 21 temporary items). Addition to the General Records Schedules (GRS) for records accumulated by Federal agencies relating to ethics programs. Included are such files as ethics agreements, referrals and notifications of violations of criminal conflict of interest statutes, records relating to program reviews, questionnaires completed by agencies concerning their ethics programs, and ethics training and education records. Also included are electronic copies of records created using electronic mail and word processing. This schedule also proposes changes in the descriptions and disposition instructions for several series previously approved for disposal in the GRS that relate to the development and implementation of ethics regulations, financial disclosure reporting, and non-federally funded travel.

20. Office of Personnel Management, Office of the Chief Information Officer (N1–478–01–1, 4 items, 3 temporary items). Electronic and hard copy schedules of daily activities for high level and senior officials. Recordkeeping copies of schedules for the Director and Deputy Director are proposed for permanent retention.

21. Peace Corps, Information Resources Management (N1–490–01–1, 4 items, 4 temporary items). Records of the Year 2000 (Y2K) Working Group, including planning and policy records, country reports, and chronological files. Also included are electronic copies of documents created using electronic mail and word processing.

22. United States Census Monitoring Board, Presidential Members (N1–220–01–4, 20 items, 10 temporary items). Records of the Presidential members of the Board, including such records as video and audio recordings which have been transcribed, photographs of routine social events, working papers and research materials, copies of Bureau of the Census advertising and promotion files, public comments, and records related to the Board's web site. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such materials as meeting and testimony files, biographies and photographs, briefing books, correspondence files, legal opinions and decision memoranda, policy correspondence, strategy files, official reports, press releases, and a web site snapshot.

23. United States Census Monitoring Board, Congressional Members (N1–220–01–5, 21 items, 10 temporary items). Records of the Congressional members of the Board, including such records as video and audio recordings which have been transcribed, photographs of routine social events, working papers and research materials, copies of Bureau of the Census advertising and promotion files, public comments, and records related to the Board's web site. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such materials as meeting and testimony files, biographies and photographs, briefing books, correspondence files, legal opinions and decision memoranda, policy correspondence, strategy files, official reports, press releases, and a web site snapshot.

Dated: July 16, 2001.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 01–18523 Filed 7–24–01; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

Exelon Generation Company, LLC (Exelon), Peach Bottom Atomic Power Station, Units 2 and 3; Notice of Receipt of Application for Renewal of Facility Operating License Nos. DPR–44 and DPR–56 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission has received an application from Exelon Generation Company, LLC (Exelon) dated July 2, 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. DPR–44 and DPR–56, which authorize the applicant to operate Peach Bottom Atomic Power Station, Units 2 and 3. Peach Bottom Atomic Power Station is a two-unit boiling water reactor located in York County and Lancaster County in southeastern Pennsylvania. The operating licenses for Peach Bottom, Units 2 and 3, expire on August 8, 2013, and July 2, 2014, respectively. The acceptability of the tendered application for docketing and other matters, including an opportunity to request a hearing will be the subject of subsequent **Federal Register** notices.

Copies of the application 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, or electronically 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 application is 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 license renewal application for the Peach Bottom Atomic Power Station is also available to local residents at the Harford County Public Library, in Whiteford, Maryland, and the Collinsville Community Library, in Brogue, Pennsylvania.

Dated at Rockville, Maryland, the 19th day of July 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. 01–18521 Filed 7–24–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 AND 50–316]

Indiana Michigan Power Co.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. DPR–58 and DPR–74, issued to Indiana Michigan Power Company (I&M, the licensee), for operation of the Donald C. Cook Nuclear Plant, Units 1 and 2, located in Bridgman, Michigan.

The proposed amendments would revise Technical Specification (TS) 3.3.1.1, Table 3.3–1, Action 2a, to increase the amount of time allowed to place an inoperable power range neutron flux channel in the tripped condition from one hour to six hours.

In its application, I&M explained why it could not have foreseen the need for these amendments. The proposed TS change is being requested on an exigent basis because I&M recently discovered that the surveillance test procedure for the quarterly power range neutron flux channel calibration, required by TS 4.3.1.1.1, Table 4.3–1, was not being performed in accordance with TS 3.3.1.1, Table 3.3–1, Action 2a. I&M has determined this to be reportable under 10 CFR 50.73(a)(2)(i)(B). I&M states that the problem exists with the quarterly power range neutron flux channel calibration surveillance, defined by TS 1.9. The manner in which the testing is performed requires the detector to be disconnected from the instrumentation. This makes the channel inoperable. Since the channel calibration takes longer than one hour to perform, the channel is placed in the tripped condition. To complete the test, the channel must be taken out of the tripped condition prior to reconnecting the detector input. The channel remains inoperable because it is disconnected; thus, Action 2a can not be met. I&M performed a review of the surveillance test procedure and concluded that the test cannot be performed in a manner that is consistent with meeting the current one-hour completion requirement of Action 2a. In order to restore compliance with the TS, the one-hour completion requirement should be increased to a time that would allow completion of the required testing. The next surveillance is due August 12, 2001, which includes the 25 percent extension allowed by TS 4.0.2. I&M could not have avoided the exigency due to the short duration between when the problem was discovered and the date when the next surveillance is due.

The staff has determined that the licensee used its best efforts to make a timely application for the proposed changes and that exigent circumstances do exist and were not the result of any intentional delay on the part of the licensee.

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.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the Nuclear Regulatory Commission (NRC) staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

The change involves an increase in the amount of time allowed prior to placing an inoperable reactor protection channel in a tripped condition. By placing a channel in a tripped condition when the channel is inoperable, it places the reactor protection system from two-out-of-four reactor trip logic to one-out-of-three reactor trip logic. This places the reactor closer to a tripped condition if a spurious signal should occur on one of the other channels. By not placing the reactor closer to an inadvertent reactor trip, the probability of a reactor trip is not significantly increased. One channel being inoperable is not a precursor to any accident and thus does not significantly increase the probability of occurrence of any accident

previously evaluated. Due to the redundancy in the reactor trip logic, the channel remaining in an untripped condition still allows a two-out-of-three reactor trip logic. This ensures that even if another channel failed, the reactor trip, if required, would still function. Thus, the consequences of an accident are not significantly increased. Thus, the proposed change does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve hardware modifications or provide functional changes to the reactor protection system. The way in which the reactor protection is taken to a tripped condition remains the same, only the time-frame within which it is required to be placed in the tripped condition is extended. Allowing additional time before placing an inoperable channel in a tripped condition does not create the possibility of a new or different kind of accident.

3. Does the change involve a significant reduction in a margin of safety?

The margin of safety is not significantly reduced by allowing the proposed six hours prior to requiring an inoperable channel to be placed in a tripped condition. The proposed change does not alter the function of the reactor trip logic. The two-out-of-three reactor trip logic that will exist without the channel in a tripped condition continues to ensure that with a single failure of a second channel, the reactor trip function will still occur. Thus, the accident analyses remain protected. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 24, 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, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html.* If there are problems in accessing the document, contact the Public Document Room 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 should 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 which may be entered in the proceeding on the petitioner's interest. The petition should 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 which must include a list of the contentions which are sought to be litigated in the matter. 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 the contention and a concise statement of the alleged facts or expert opinion which 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. 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 which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which 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.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a 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 petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to David W. Jenkins, Esq., Indiana Michigan Power Company, Nuclear Generation Group, One Cook Place, Bridgman, MI 49106, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding 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).

For further details with respect to this action, see the application for amendment dated July 17, 2001, which is 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 Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 19th day of July 2001.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–18522 Filed 7–24–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454, STN 50–455, STN 50–456 and STN 50–457]

Exelon Generation Company, LLC Byron Station, Units 1 and 2 Braidwood Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, Section 50.60(a) for Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77, issued to Exelon Generation Company, LLC, (the licensee), for operation of the Byron Station, Units 1 and 2, and Braidwood Station, Units 1 and 2 located in Ogle County in Illinois and Will County in Illinois, respectively. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt Byron and Braidwood from application of specific requirements of 10 CFR part 50, Section 50.60(a) as it applies to Appendix G, and substitute with the use of ASME Code Cases N–588 and N–640. 10 CFR part 50, Appendix G, requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, Appendix G, states, ''The appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR Part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code), Section XI, Appendix G Limits.

The proposed action is in accordance with the licensee's application for exemption dated July 5, 2000, as supplemented by letter dated December 8, 2000.

The Need for the Proposed Action

The proposed action (*i.e.,* granting the exemption) is needed because utilization of Code Case N–588 and Code Case N–640 will widen the current narrow P–T operating window, especially in the region of low temperature operations. The two primary safety benefits that would be realized are a reduction in the challenges to the low-temperature over pressure protection (LTOP) system, resulting in an inadvertent opening of a power-operated relief valve (PORV) and a reduction in the risk of damaging the reactor coolant pump seals due to pump operation, under conditions where it is difficult to maintain adequate seal differential pressure to ensure proper pump operation.

Code Case N–588 permits the postulation of a circumferentially-oriented flaw (in lieu of an axially-oriented flaw) for the evaluation of the circumferential welds in RPV P–T limit curves. Code Case N–640 permits the use of an alternate reference fracture toughness (K_{IC} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P–T limits. Since the pressure stresses on a circumferentially-oriented flaw are lower than the pressure stresses on an axially-oriented flaw by a factor of 2, using Code Case N–588 for establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G and, therefore, an exemption to apply the Code Case would be required by 10 CFR 50.60. Likewise, since the K_{IC} fracture toughness curve shown in ASME Section XI, Appendix A, Figure G–2200–1 (the K_{IC} fracture toughness curve) provides greater allowable fracture toughness than the corresponding K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1 (the K_{Ia} fracture toughness curve), using Code Case N–640 for establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G and, therefore, an exemption to apply the Code Case would also be required by 10 CFR 50.60. It should be noted that, although Code Case N–640 was incorporated into the ASME Code recently, an exemption is still needed because the proposed P–T limits (excluding Code Cases N–588 and

N–640) are based on the 1989 edition of the ASME Code.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes granting the exemption would provide an adequate margin of safety against brittle failure of the Byron and Braidwood reactor vessels. The proposed action (*i.e.*, granting the exemption) will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Byron and Braidwood stations dated April 1982 and June 1984 respectively.

Agencies and Persons Consulted

On June 22, 2001, the staff consulted with the Illinois State official, Mr. Frank Niziolek of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 5, 2000, as supplemented by letter dated December 8, 2000. Documents may be examined, and/or copied for a fee, at the NRC'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 e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 19th day of July 2001.

For the Nuclear Regulatory Commission.

Mahesh Chawla,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–18520 Filed 7–24–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 2, 2001 through July 13, 2001. The last biweekly notice was published on July 11, 2001 (66 FR 36335).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may

also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 24, 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 20852. Publicly available records will be accessible and electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room). 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 a 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 should 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 which may be entered in the proceeding on the petitioner's interest. The petition should 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 which must include a list of the contentions which are sought to be litigated in the matter. 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 the contention and a concise statement of the alleged facts or expert opinion which 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. 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 which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which 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.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the 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 factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is 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 from the Agencywide Documents Assess 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, 304–415–4737 or by email to pdr@nrc.gov.

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: June 7, 2001.

Description of amendment request: The proposed amendment request would revise the requirement for the Senior Manager-Operations to hold a Senior Reactor Operator license.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change to TS [Technical Specification] 6.2.2.2.j revises the requirement concerning the Operations management position that must hold an SRO [Senior Reactor Operator] license. At least one of the Operations Managers or the Senior Manager-Operations will continue to meet NRC requirements for maintaining an SRO license. The training, qualification, and experience requirements for Operations management personnel will continue to satisfy ANSI/ANS [American National Standards Institute/American Nuclear Society] 3.1–1978 as required by TS 6.3.1. This change does not involve any physical modifications to plant structures, systems, or components (SSC), or the manner in which SSCs are operated, maintained, modified, tested, or inspected. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change to TS 6.2.2.2.j revises the requirement concerning the Operations management position that must hold an SRO license. At least one of the Operations Managers or the Senior Manager-Operations will continue to meet NRC requirements for maintaining an SRO license. The training, qualification and experience requirements for Operations management personnel will continue to satisfy ANSI/ANS 3.1–1978 as required by TS 6.3.1. This change does not involve any physical modifications to SSCs, or the manner in which SSCs are operated, maintained, modified, tested, or inspected. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed change to TS 6.2.2.2.j revises the requirement concerning the Operations management position that must hold an SRO license. At least one of the Operations Managers or the Senior Manager-Operations will continue to meet NRC requirements for maintaining an SRO license. If the Senior Manager-Operations does not hold an SRO license, then an Operations Manager must hold an SRO license. This individual will be qualified to fill the Senior Manager-Operations position and have the same management authority over licensed operators as the Senior Manager-Operations. In addition, administrative procedures will ensure that there is always an individual holding a current SRO license within Operations management. The training, qualification and experience requirements for Operations management personnel will continue to satisfy ANSI/ANS 3.1–1978 as required by TS 6.3.1. This change does not involve any physical modifications to SSCs, or the manner in which SSCs are operated, maintained, modified, tested, or inspected. As the proposed change is administrative in nature, operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kevin P. Gallen, Morgan, Lewis & Bockius, LLP, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Richard P. Correia, Acting.

AmerGen Energy Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of amendment request: March 29, 2001, as supplemented by letter dated June 27, 2001.

Description of amendment request: The proposed amendment revises the pressure-temperature (P–T) limits of Technical Specification (TS) 3.1.2 for the Three Mile Island Nuclear Station, Unit 1 (TMI–1). The proposed amendment will revise the heatup, cooldown, and inservice hydrostatic test limitations, and the respective heatup and cooldown rates for the reactor coolant system (RCS). The service period for the new P–T limits will be for a maximum of 29 effective full power years. The related Bases are also revised. Sections 3.1.2.4 and 3.1.2.5 of the TSs are revised to remove reference to Sections V.B and V.C of Appendix G, of 10 CFR Part 50, as these sections no longer exist in the regulations. The proposed amendment also revises TS Figures 3.1–1 and 3.1–2 to permit TMI–1 to be operated during low temperature conditions with two reactor coolant pumps in operation in a single loop.

The proposed amendment also revises TS Section 3.1.12, ''Low Temperature Overpressure Protection (LTOP)'' setpoints. The RCS Power-Operated Relief Valve (PORV) low setpoint is being revised to 552 psig as a result of the P–T limit changes, which is the error-adjusted maximum setpoint. The enable temperature for the PORV setpoint (TS 3.1.12.2) and the LTOP setpoint (TS 3.1.12.1) is revised to 329 degrees Farenheit to be consistent with the new P–T bases. Section 3.1.12 is also revised to reorganize and clarify the LTOP system protection parameters and applicable conditions. Reference to nominal setpoint pressure values which do not affect the specified maximum and minimum setpoint values has been deleted. The related TS 3.1.12 Bases is revised to reflect the above changes to limits and setpoints. The Table of Contents page ii is revised to reflect the changes to Section 3.1.12 and to correct a previously issued typographical error in the listed titles of Sections 3.4.1 and 3.4.2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

These proposed Technical Specification changes were developed utilizing the procedures of ASME [American Society for Mechanical Engineers] [Boiler and Pressure Vessel Code (Code), Section] XI, Appendix G, in conjunction with Code Cases N–588 and N–640. Usage of these procedures provides compliance with the underlying intent of 10 CFR 50 Appendix G and provides safety limits and margins of safety which ensure that failure of a reactor vessel will not occur.

The proposed changes do not impact the capability of the reactor coolant pressure boundary (i.e., no change in operating pressure, materials, seismic loading, etc.) and therefore, do not increase the potential for the occurrence of a loss of coolant accident (LOCA). The changes do not modify the reactor coolant system pressure boundary, nor make any physical changes to the facility design, material, or construction standards.

The probability of any design basis accident (DBA) is not affected by this change, nor are the consequences of any DBA affected by this change. The proposed Pressure-Temperature (P–T) limits, Low Temperature Overpressure (LTOP) limits and setpoints, and allowable operating reactor coolant pump combinations are not considered to be an initiator or contributor to any accident analysis addressed in the TMI Unit 1 UFSAR [updated final safety analysis report].

The proposed changes do not adversely affect the integrity of the RCS such that its function in the control of radiological consequences is affected. Radiological off-site exposures from normal operation and operational transients, and faults of moderate frequency do not exceed the guidelines of 10 CFR [Part] 100. In addition, the proposed changes do not affect any fission product barrier. The revised PORV LTOP setpoint is established to protect [the] reactor coolant pressure boundary. The changes do not degrade or prevent the response of the PORV or safety-related systems to previously evaluated accidents. In addition, the changes do not alter any assumption previously made in the mitigation of the radiological

consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license amendment revises the TMI Unit 1 reactor vessel P–T limits, LTOP limits and setpoints, and allowable operating reactor coolant pump combinations. Compliance with 10 CFR 50 Appendix G, includes utilization of ASME XI, Appendix G, as modified by Code Cases N–588 and N–640 to meet the underlying intent of the regulations. The criteria of 10 CFR 50.61 remains satisfied, thus ensuring an adequate margin of safety for potential thermal shock events. The proposed limits are developed utilizing NRC-approved methodology and conservatively account for material property changes as required by regulation. The design basis event related to this change is nonductile failure of the reactor coolant pressure boundary. The proposed amendment provides assurance of protection against nonductile failure of the reactor coolant pressure boundary for operation of 29 Effective Full Power Years (EFPY) and is unrelated to the possibility of creating a new or different kind of accident. The proposed amendment does not introduce any new systems or components, or create any new component failure modes. Sufficient pressure margin is maintained to accommodate the proposed change to the allowable operating reactor coolant pump combinations.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed Technical Specification (TS) changes were developed utilizing the procedures of ASME XI, Appendix G, in conjunction with Code Cases N–588 and N–640. Usage of these procedures provides compliance with the underlying intent of 10 CFR 50 Appendix G and provides safety limits and margins of safety which ensure that failure of a reactor vessel will not occur.

No plant safety limits, set points, or design parameters are adversely affected. The fuel, fuel cladding, and Reactor Coolant System are not impacted.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Edward J. Cullen, Jr., Esq., PECO Energy Company, 2301 Market Street, S23–1, Philadelphia, PA 19103.

NRC Section Chief: Richard P. Correia (Acting).

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: June 26, 2001.

Description of amendments request: The proposed amendments would revise the Technical Specifications to support a modification that would install a digital Power Range Neutron Monitoring (PRNM) system. The modification would supersede plant modifications previously installed in support of Carolina Power & Light Company's implementation of Enhanced Option I–A, and will allow full implementation of the Boiling Water Reactor Owners Group (BWROG) Option III Reactor Stability Long-Term Solution.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed license amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will replace the currently installed and NRC approved Enhanced Option I–A long-term stability solution, which prohibits operation in areas with the potential for instability, with an NRC approved Option III long-term stability solution. The PRNM hardware meets the General Design Criteria (GDC) 10 and 12 requirements by automatically detecting and suppressing design basis thermal-hydraulic oscillations prior to exceeding the fuel Minimum Critical Power Ratio (MCPR) Safety Limit. The accident probability will not change since the instability is suppressed prior to exceeding the MCPR Safety Limit, the solution has defense-in-depth features, and is of robust design. In addition, the PRNM system does not interact with equipment whose failure could cause an accident, and compliance is retained for regulatory criteria established for PRNM system and associated plant equipment. Scram setpoints in the PRNM system will be established so that analytical limits are met. The reliability of the new system will meet or exceed that of the existing system and, as a result, the scram reliability will be equal to or better than the existing system. No new challenges to safety-related equipment will result from the PRNM system.

Proper operation of the PRNM system does not affect any fission product barrier or Engineered Safety Feature. Thus, the proposed change cannot change the consequences of any accident previously evaluated. As stated above, the PRNM system meets the requirements of GDC 10 and 12 by automatically detecting and suppressing design basis thermal-hydraulic oscillations prior to exceeding the fuel MCPR Safety Limit.

Based on the above, the operation of the new PRNM system and replacement of the currently installed Enhanced Option I–A stability solution with the Option III Oscillation Power Range Monitor (OPRM) function will not increase the probability or consequences of an accident previously evaluated.

2. The proposed license amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The components of the PRNM system will be supplied to equivalent or better design and qualification criteria than is currently required for the plant. Equipment that could be affected by the PRNM system has been evaluated. No new operating mode, safety-related equipment lineup, accident scenario, system interaction, or equipment failure mode was identified. Therefore, the PRNM system will not adversely affect plant equipment.

The current plant design using the Enhanced Option I–A long-term stability solution depends on prohibited operating regions with an automatic scram if the exclusion region of the power/flow map is entered and an automatic rod block if the restricted region of the power/flow map is entered. The current design also relies on operator action to manually scram the plant if automatic monitoring of neutron flux through the period based detection system (PBDS) provides an instability alarm when in a region that has a potential for instability. The modification implementing PRNM replaces these automatic and manual requirements with a fully automatic detect and suppress capability to assure that instability events that occur will be terminated before the MCPR Safety Limit is exceeded. The ''scram and rod block enforced'' restrictions on the operating region are relaxed. Potential failures in the OPRM Upscale function could result in either failure to take the required mitigating action or an unintended reactor scram, which are the same potential effects of failure of the currently installed Enhanced Option I–A functions.

The PRNM modification and associated changes to the Technical Specifications involve equipment that is designed to detect the symptoms of certain events or accidents and initiate mitigating actions. The worst [case] failure of the equipment involved in the modification is a failure to initiate mitigating action (i.e., scram or rod block), but no failure can cause an accident of a new or different kind than any previously evaluated.

Based on the above, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendments do not involve a significant reduction in a margin of safety.

The current safety analyses assume that the existing Enhanced Option I–A related Technical Specification requirements are adequate to prevent an instability event. PBDS is provided as part of the design to detect and suppress an instability event as a defense-in-depth feature. As a result, there is currently no impact on the MCPR Safety Limit identified for an instability event.

The Option III OPRM trip function is being implemented to fully automate the detection, via direct measurement of neutron flux, and subsequent suppression, via scram, of an instability event prior to exceeding the MCPR Safety Limit. Other OPRM trip features (i.e., Growth and Amplitude Algorithms) are provided as part of a robust design and defense-in-depth feature for unanticipated oscillations. Currently, the MCPR Safety Limit is not challenged by an instability event since the event is prevented by automatic means or mitigated by automatic and manual means via the Enhanced Option I–A functions. In both methods the margin of safety associated with the MCPR Safety Limit is maintained.

Other changes such as setpoint revisions, removing the Average Power Range Monitor Downscale function from the Reactor Protection System trip logic, removing the number of operable Local Power Range Monitors from the automatic trip logic, and lengthening the Surveillance Requirement frequencies are shown to be acceptable, as documented in licensing topical report (LTR) NEDC–32410P–A, ''Nuclear Measurement Analysis and Control Power Range Neutron Monitor (NUMAC–PRNM) Retrofit Plus Option III Stability Trip Function,'' October 1995, and LTR NEDC–32410P–A Supplement 1, ''Nuclear Measurement Analysis and Control Power Range Neutron Monitor (NUMAC–PRNM) Retrofit Plus Option III Stability Trip Function,'' November 1997. Both of these LTRs have been reviewed and approved by the NRC.

Based on the above, the proposed change will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Patrick M. Madden, Acting.

Carolina Power & Light Company, Docket No. 50–400, Shearon Harris Nuclear Power Plant, (HNP) Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: May 7, 2001, as supplemented on June 29, 2001.

Description of amendment request: The proposed amendment revises Technical Specification (TS) 3.4.3 and the associated Surveillance Requirements (SR) to eliminate the pressurizer water volume value in the specification and change ''volume'' to ''level'' in TS 3.4.3 and SR 4.4.3.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect operations of the Reactor Coolant System (RCS) components. The proposed change is administrative in nature in that it deletes a value from the TS that is not used as a control limit since it cannot be monitored directly. Instead, pressurizer level is used as the control parameter and level can be monitored. The volume specified in the current TS is redundant information to the level limit in the specification. The specification is made consistent with the Improved Technical Specifications [ITS] with this change. The ITS only identify a limit for percent pressurizer level. No change to the HNP TS for the pressurizer level value is being proposed.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve new plant components or procedures, but only removes a value for volume in the pressurizer which is essentially redundant to the percent level indication and not a directly monitorable parameter for plant operation. These changes are administrative in nature and do not place SSCs [structures, systems, and components] in conditions outside of their design basis. There is no revision to operating setpoints or conditions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes to the pressurizer level TS and associated bases only remove unnecessary information from the specification. The information is not needed for plant operation and control. The deletion of this information represents an administrative change only since no change to the maximum level setpoint or operational limit is being made. The effect of this change is to make the plant TS consistent with the current ITS with no change to the margin of safety as described in the TS.

Therefore, the proposed change does not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power and Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Patrick M. Madden, Acting.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: April 11, 2001, as supplemented June 14, 2001.

Description of amendment request: The proposed amendment would update the list of documents describing the analytical methods used to determine the core operating limits specified in Technical Specification (TS) 6.9.1.8b. Specifically, these changes would update the documents describing the analytical methods used in the current Small Break Loss of Coolant Accident analysis (SBLOCA), setpoint methodology, and non-LOCA methodology. In addition, the revision number and the date of documents listed in TS 6.9.1.8b would be deleted, in a manner consistent with that approved by the NRC in Standard Technical Specification Change Traveler TSTF–363.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration in their April 11, 2001, application. However, the NRC staff found that the licensee's no significant hazards consideration was not fully supported. In response to the staff's request, the licensee submitted a revised no significant hazards consideration on June 14, 2001, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change in document 6 and the deletion of document 7 of Technical Specification 6.9.1.8b are made to identify the most recent, Nuclear Regulatory Commission (NRC) approved, model used in Small Break Loss of Coolant Accident (SBLOCA) applications. This methodology meets the requirements of 10 CFR 50.46 and 10 CFR 50 Appendix K. This change has no impact on plant equipment operation. Since the change only affects the SBLOCA analysis, it cannot affect the likelihood or consequences of accidents. Therefore, this change will not increase the probability or consequences of an accident previously evaluated.

The proposed change in document 15 (renumbered 14) of Technical Specification 6.9.1.8b is made to identify the most recent, NRC approved, setpoint methodology for Combustion Engineering type reactors. This change has no impact on plant equipment operation. The proposed change does not revise any setpoints assumed in the accident analyses. Therefore, it cannot affect the likelihood or consequences of accidents. Therefore, this change will not increase the probability or consequences of an accident previously evaluated.

The proposed change to add a new document as 6.9.1.8b.15 is required to identify the most recent Non-LOCA methodology to be used in the Millstone Unit No. 2 Non-LOCA analysis. The use of this methodology will demonstrate that the acceptance criteria for Non-LOCA events are met. This change has no impact on plant equipment operation. The change does not affect the acceptance criteria for Non-LOCA accident[s]. Therefore, it cannot affect the likelihood or consequences of accidents. Therefore, this change will not increase the probability or consequences of an accident previously evaluated.

Deleting the revision number and the date from the documents contained in sections 6.9.1.8b.1 through 6.9.1.8b.15 has no impact on the actual analytical methods used to determine the core operating limits, nor does it have impact on the calculations performed for current or future reloads. This change is administrative in nature. This change has no impact on plant equipment operation nor does it affect the likelihood or consequences of accidents. Therefore, this change will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. They do not alter the way any structure, system, or component functions and do not alter the manner in which the plant is operated. These changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes have no impact on plant equipment operation. The proposed changes do not revise any setpoints assumed in the analyses and do not affect the acceptance criteria for Non-LOCA accidents. Therefore, the proposed changes will not result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Connecticut 06385.

NRC Section Chief: James W. Clifford.

Entergy Nuclear Generation Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: May 31, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification 5.5.6.b, ''Technical Specification (TS) Bases Control Program,'' to provide consistency with the changes to 10 CFR 50.59 which were published in the **Federal Register** (64 FR 53582) on October 4, 1999.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The current Bases Control Program allows the licensee to make changes to the Technical Specification Bases that do not modify the Technical Specification requirements and which are allowed without prior NRC approval via 10 CFR 50.59. The proposed change does not modify these requirements and is administrative in nature. The revised change modifies the wording of the Bases Control Program to be consistent with the revised 10 CFR 50.59 program. The evaluation requirements of 10 CFR 50.59 will ensure that changes to the Technical Specification Bases will not result in more than a minimal increase in the probability or consequences of an accident without NRC prior review and approval. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously analyzed?

The current Bases Control Program allows the licensee to make changes to the Technical Specification Bases that do not modify the Technical Specification requirements and which are allowed without prior NRC approval via 10 CFR 50.59. The proposed change does not modify these requirements and is administrative in nature. The revised change modifies the wording of the Bases Control Program to be consistent with the revised 10 CFR 50.59 program. The evaluation requirements of 10 CFR 50.59 will ensure that changes to the Technical Specification Bases will not result in a new or different kind of accident than any previously evaluated in the final safety analysis report without NRC prior review and approval. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The current Bases Control Program allows the licensee to make changes to the Technical Specification Bases that do not modify the Technical Specification requirements and which are allowed without prior NRC approval via 10 CFR 50.59. The proposed change does not modify these requirements and is administrative in nature. The revised change modifies the wording of the Bases Control Program to be consistent with the revised 10 CFR 50.59 program. The evaluation requirements of 10 CFR 50.59 will ensure that changes to the Technical Specification Bases will not result in significant reduction in the margin of safety without NRC prior review and approval. This change is administrative in nature based on the amending of 10 CFR 50.59. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. M. Fulton, Esquire, Assistant General Counsel, Pilgrim Nuclear Power Station, 600 Rocky Hill Road, Plymouth, Massachusetts, 02360–5599.

NRC Section Chief: James W. Clifford.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: May 30, 2001.

Description of amendment request: The proposed amendments would change the Technical Specification (TS) Surveillance Requirement (SR) 3.6.1.1.3 and add two new SRs, SR 3.6.1.1.4 and SR 3.6.1.1.5, covering the testing of Suppression Chamber-Drywell Vacuum Breakers. The proposed changes will decrease the frequency of the Drywell-to-Suppression Chamber bypass leakage

test while maintaining the current leakage test frequency for the Suppression Chamber-Drywell Vacuum Breakers, and establish new leakage acceptance criteria for the Suppression Chamber-Drywell Vacuum Breakers when the valves are tested individually. The proposed TS changes are similar to TS changes approved for Susquehanna Steam Electric Station on September 6, 1996.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes modify Technical Specifications (TS) Surveillance Requirement (SR) 3.6.1.1.3 and add two new SRs, SR 3.6.1.1.4 and SR 3.6.1.1.5. The proposed changes will decrease the frequency for the Drywell-to-Suppression Chamber bypass leakage test while maintaining the current leakage testing frequency for the Suppression Chamber-Drywell Vacuum Breakers, and establish new leakage acceptance criteria for the Suppression Chamber-Drywell Vacuum Breakers when the valves are tested individually.

The performance of a Drywell-to-Suppression Chamber bypass leakage test or Suppression Chamber-Drywell Vacuum Breaker leakage test is not a precursor to any accident previously evaluated. Thus, the proposed changes to the performance of the leakage tests do not have any effect on the probability of an accident previously evaluated.

The performance of a Drywell-to-Suppression Chamber bypass leakage test or a Suppression Chamber-Drywell Vacuum Breaker test does provide assurance that the containment will perform as designed. Thus, the radiological consequences of any accident previously evaluated are not increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of an accident from any accident previously evaluated?

The proposed changes to SR 3.6.1.1.3, SR 3.6.1.1.4, and SR 3.6.1.1.5 do not affect the assumed accident performance of any LaSalle County Station structure, system or component previously evaluated. The proposed changes do not introduce any new modes of system operation or failure mechanisms.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The current frequency associated with a Drywell-to-Suppression Chamber bypass leakage test in SR 3.6.1.1.3 is 24 months or 12 months if two consecutive tests fail and continues at this frequency until two consecutive tests pass. The proposed SR change will modify the leakage test frequency to be consistent with the Primary Containment Leakage Rate Testing Program for Type A Tests, or 48 months following one test failure or 24 months if two consecutive tests fail and continues at this frequency until two consecutive tests pass. The proposed change in SR 3.6.1.1.3 frequency is acceptable as the results from previous tests show that the measured Drywell-to-Suppression Chamber bypass leakage at the current TS frequency has been a small percentage of the allowable leakage. Acceptability is further demonstrated by the design requirements applied to the primary containment components and other periodically performed primary containment inspections.

The proposed SR 3.6.1.1.4 will establish a leakage test frequency of 24 months for each Suppression Chamber-Drywell Vacuum Breaker except when the leakage test of SR 3.6.1.1.3 has been performed within 24 months. SR 3.6.1.1.4 specifies a leakage limit for each Suppression Chamber-Drywell Vacuum Breaker of less than or equal to 12% of the bypass leakage limit of TS 3.6.1.1.3. The proposed SR 3.6.1.1.5 will establish a total leakage limit of less than or equal to 30% of the bypass leakage limit of SR 3.6.1.1.3 when the Suppression Chamber-Drywell Vacuum Breakers are tested in accordance with SR 3.6.1.1.4. The proposed changes to establish leakage limits for the Suppression Chamber-Drywell Vacuum Breakers are acceptable as demonstrated by the results from previous Suppression Chamber-Drywell Vacuum Breaker leakage tests that show the measured leakage has been a small percentage of the allowable leakage.

Thus, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Robert Helfrich, Senior Counsel, Nuclear, Mid-West Regional Operating Company, Exelon Generation Company, LLC, 1400 Opus Place, Suite 900, Downers Grove,IL 60515.

NRC Section Chief: Anthony J. Mendiola.

Exelon Energy Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: April 23, 2001.

Description of amendment request: The proposed change would delete the loose parts monitoring system (LPMS) and the associated Technical Specifications (TSs) and Bases currently contained in the Limerick Generating Station, Units 1 and 2 Technical Specifications. The licensee bases its proposal to delete the LPMS on the conclusions of the Boiling Water Reactor Owners' Group Topical Report NEDC–32975P, ''Regulatory Relaxation for BWR Loose Parts Monitoring Systems''.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

This Technical Specification (TS) Change Request will delete the Loose Parts Monitoring System and the associated Technical Specifications and Bases currently contained in the Limerick Generating Station (LGS), Units 1 and 2, Technical Specifications. The Loose Parts Monitoring System (LPMS) is not an accident initiating system. The LPMS was designed in conformance with Regulatory Guide 1.133 (''Loose-Parts Detection Program for the Primary System of Light-Water-Cooled Reactors,'' Revision 1, May 1981), to detect and alarm for loose parts in the reactor coolant system. A secondary function of the system is to assist the operators in locating the detected loose parts. The LPMS is used for information purposes only and is not a safety-related system. The operators do not rely solely on this system or information provided by this system for the performance of any safety-related action. Review of the Updated Final Safety Analysis (UFSAR) indicates that this system is not relied upon by other systems for input or data. This is a monitoring system that does not perform any automatic or control functions, and is not relied upon for any accident or transient evaluation. The removal of the LPMS from operation will not increase the need for operator intervention or increase operator burden to support any system used to mitigate an accident under normal or off normal conditions. Therefore, the proposed changes will not significantly increase the probability of an accident previously evaluated.

The removal of the LPMS will not change or degrade the physical barriers or systems designed to contain radiation, and will have no affect on the on-site or off-site radiological conditions. Therefore, the proposed TS changes do not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

This TS Change Request will delete the Loose Parts Monitoring System and the associated Technical Specifications and

Bases currently contained in the LGS, Units 1 and 2, Technical Specifications. Removal of this system will not create a new mode of operation of the plant. The LPMS is a nonsafety-related monitoring system. The proposed changes do not create a system-level failure mode different than those that already exist. In addition, there are no operation or failure modes of the LPMS that are accident initiators. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

This TS Change Request does not affect any safety limits or analytical limits. Also there are no changes to accident or transient core thermal hydraulic conditions, or fuel or reactor coolant boundary design limits, as a result of these proposed changes. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Edward Cullen, Vice President & General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: James W. Clifford.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–334, Beaver Valley Power Station, Unit No. 1 (BVPS–1), Beaver County, Pennsylvania

Date of amendment request: March 28, 2001.

Description of amendment request: The proposed amendment request for BVPS–1 would increase the limits for boron concentration in the Refueling Water Storage Tank (RWST) and in the Reactor Coolant System (RCS) accumulators. This proposed license amendment would also revise the limits and associated surveillance requirements on boron concentration in the Boron Injection Tank (BIT) to be consistent with the limits specified for the RWST. This proposed amendment would revise the RCS minimum boron concentration limit for Mode 6 to make it consistent with the RWST boron concentration limit.

The increase in the boron concentration limits in the RWST and Accumulators is needed to address higher reactor core reactivity levels associated with core operation with higher plant capacity factors. The RCS boron concentration limit in Mode 6 during refueling needs to be revised whenever the RWST/Accumulator minimum boron concentration limit is adjusted, for consistency. Boron concentration above the upper limit of the RWST are not needed in the BIT in order to satisfy applicable safety analyses. Therefore, revising the boron concentration limits removes the need to maintain associated temperature controls and their associated surveillance requirements on the BIT. The Note at the bottom of Technical Specification (TS) 3/4.5.4.1.1 is being deleted since N–1 loop operation during Modes 1, 2 and 3 (when this Specification is applicable) is not permitted by TS 3/4.4.1.4.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change to the BVPS Unit 1 RWST, Accumulators, BIT and in the RCS during Mode 6 will maintain the safety analyses results in Chapter 14 of the BVPS Unit 1 UFSAR [Updated Final Safety Analysis Report] as bounding values for all Loss of Coolant Accident (LOCA) and non-LOCA design basis accidents. The proposed changes do not invalidate the RWST, accumulators or BIT's ability to meet its design bases.

Increased boron concentration limits for the RWST, Accumulators, BIT and RCS in Mode 6 will not increase the consequences of an accident previously analyzed. The increased boron concentration limits reduce the time to switchover from cold leg to hot leg recirculation, which will prevent boron precipitation in the reactor vessel following a LOCA. The post-LOCA long term core cooling minimum boron requirements have been determined to continue to be adequate to ensure adequate post-LOCA shutdown margin. The post-LOCA containment sump and containment spray pH remain within the limits specified in the UFSAR. All other transients either were not impacted or were made less severe as a result of the increased boron concentrations.

The deletion of the Note in Technical Specification 3/4.5.4.1.1 does not alter the safety analyses as evaluated in the UFSAR since N–1 operation is currently prohibited by Technical Specification 3/4.4.1.4.1. With the reduced upper limit on boron concentration in the BIT, the controls on temperature for the BIT are eliminated since boron precipitation is precluded above freezing.

Therefore, this change will not increase the probability of occurrence of a postulated accident or the consequences of an accident previously evaluated since the change would continue to comply with the current BVPS Unit 1 licensing basis as it relates to the peak cladding temperature criteria of 10 CFR Part 50, Appendix K and the dose limits of GDC 19 and 10 CFR Part 100.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed increase in boron concentration does not add new or different equipment to the facility. The proposed Technical Specification changes also do not alter the manner in which plant equipment is being operated. Although the increased boron concentration requires procedure changes to ensure that cold leg to hot leg recirculation after a LOCA occurs quicker, there are no changes to the methods utilized to respond to plant events. The proposed Technical Specification changes do not alter instrument or control setpoints that initiate protective or mitigative actions. These increased boron concentration limits are conservative and do not alter the RCS or Emergency Core Cooling System's ability to perform their design bases.

The deletion of the Note in Technical Specification 3/4.5.4.1.1 does not alter the safety analyses as evaluated in the UFSAR since N–1 operation is currently prohibited by Technical Specification 3/4.4.1.4.1. With the reduced upper limit on boron concentration in the BIT, the controls on temperature for the BIT are eliminated since boron precipitation is precluded above freezing.

Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated accident [* * *]

3. Does the change involve a significant reduction in a margin of safety?

The LOCA considerations, including Peak Cladding Temperature calculations, containment sump and spray pH requirements, boron solubility requirements, cold shutdown boration requirements, post-LOCA long term core cooling minimum boron requirements, hot leg recirculation switchover requirements, post-LOCA hydrogen generation requirements, and radiological requirements have been evaluated and determined to be acceptable. The acceptance criteria of all non-LOCA design basis accidents continue to be met.

The proposed amendment does not involve revisions to any safety limits or safety system setting that would adversely impact plant safety. The proposed amendment does not adversely affect the ability of systems, structures or components important to the mitigation and control of design bases accident conditions within the facility. In addition, the proposed amendment does not affect the ability of safety systems to ensure that the facility can be maintained in a shutdown or refueling conditions for extended periods of time.

Based upon the above evaluations, the [change does not involve a significant reduction in the margin of safety [* * *]

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Richard Correia, Acting.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: June 12, 2001.

Description of amendment request: The requested amendment would revise the Technical Specifications (TSs) by changing Surveillance 4.4.10 to incorporate alternative reactor coolant pump (RCP) flywheel inspection requirements and would make various administrative wording changes to TSs 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, North Atlantic has concluded that the proposed changes do not involve a significant hazards consideration (SHC). The basis for the conclusion that the proposed changes do not involve a SHC is as follows:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed revision to TS Surveillance 4.4.10, incorporates alternative reactor coolant pump flywheel inspection requirements into TS Surveillance 4.4.10 based on Topical Report WCAP–14535A. WCAP–14535A provided a technical basis for the elimination of inspection requirements for reactor coolant pump flywheels based on industry data. The industry data indicated that no indications that would affect the integrity of flywheels were revealed during 729 examinations of 217 flywheels at 57 plants (including Seabrook Station). The NRC, during their review and approval of the WCAP required continued inspections on a ten-year interval to protect against events and degradation that were not anticipated and had not been considered in the WCAP analysis. The proposed alternate inspection requirements are consistent with the conclusions of an NRC review and generic approval of Topical Report WCAP–14535A. Thus, it is concluded that the proposed revision to TS Surveillance 4.4.10 does not significantly increase the probability of an accident. Additionally, the performance of reactor coolant pump flywheel surveillances does not increase the consequence of an accident previously evaluated.

The proposed changes to TS 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. In addition, these proposed changes do not affect the manner in which the plant responds in normal operation, transient or accident conditions, nor do they change procedures related to operation of the plant. The proposed changes to TS 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 do not alter or prevent the ability of structures, systems and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the acceptance limits assumed in the Updated Final Safety Analysis Report (UFSAR). These proposed changes are administrative in nature and only update the Operation [sic] License.

The proposed changes to TS 4.4.10, 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 are administrative in nature and only update the Seabrook Station Operating License. These proposed changes do not affect the source term, containment isolation or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated in the Seabrook Station UFSAR. Further, the proposed changes do not increase the types and amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures.

Therefore, it is concluded that these proposed revisions to TS 4.4.10, 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 do not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

This proposed revision to TS Surveillance 4.4.10 does not change the operation or the design basis of any plant system or component during normal or accident conditions. The proposed change incorporates alternate inspection requirements for the reactor coolant pump flywheels, which were generically approved by the NRC for use by licensees. This change does not include any physical changes to the plant. The proposed changes do not change the function or operation of plant equipment or introduce any new failure mechanisms. The plant equipment will continue to respond per the design and analyses and there will not be a malfunction of a new or different type introduced by the proposed changes.

The proposed changes to TS 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 are administrative in nature and only update the Seabrook Station Operating License. These proposed changes do not modify the facility, nor do they modify the manner in which the plant will be operated, nor do they affect the plant's response to normal, transient or accident conditions. The proposed changes to TS 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 do not introduce a new mode of plant operation. The plant's design and design basis are not revised and the current safety analyses will remain in effect and the plant will continue to be operated in accordance with the existing Technical Specifications.

Thus, these proposed revisions to TS 4.4.10, 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

This proposed revision to TS Surveillance 4.4.10 incorporates alternative reactor coolant pump flywheel inspection requirements into TS Surveillance 4.4.10 that are consistent with the conclusions of an NRC review and generic approval of Topical Report WCAP–14535A. The current inspection requirements of TS Surveillance 4.4.10 and the NRC review of WCAP–14535A were both based on the recommendations of Regulatory Guide 1.14. The proposed changes do not change the function or operation of plant equipment or affect the response of that equipment if it is called upon to operate. The performance capability of the reactor coolant pumps will not be affected. Reactor coolant pump reliability and availability will be unaffected by implementation of the proposed changes.

The proposed changes to TS 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 are administrative in nature and only update the Seabrook Station Operating License. The safety margins established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits as specified in the TSs are not revised. Neither the plant design, nor its method of operation, are revised by these proposed changes. Finally, the proposed changes to TS 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 do not change the physical design or the operation of the plant.

Thus, it is concluded that these proposed revisions to TS 4.4.10, 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 do not involve a significant reduction in a margin of safety.

Based on the above evaluation, North Atlantic concludes that the proposed changes to TS 4.4.10, 6.4.1.7.b, 6.4.2.2.d, and 6.4.2.3 do not constitute a significant hazard.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Section Chief: James W. Clifford.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: June 18, 2001.

Description of amendment request: The proposed amendment would revise the reference point for reactor vessel level instrumentation specifications to use instrument ''zero'' instead of ''top of active fuel'; simplify the Safety Limits and Limiting Safety System Settings to eliminate specifications that are

unnecessary, outdated, or redundant to other Technical Specifications (TSs); change the reactor coolant system pressure Safety Limit from 1335 psig to 1332 psig to correct a minor calculation error; and make corresponding TS Bases changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The requested changes are administrative in nature in that they change instrumentation reference points, reformat sections to conform to current NRC guidance, or correct minor errors.

One change involves a small conservative reduction in the reactor coolant system pressure limit. This change corrects a long standing minor discrepancy in this numerical limit.

Another change eliminates the extra 12 inches above the top of active fuel currently specified in the reactor water level Safety Limit. It is sufficient to require that all active fuel is covered by water to satisfy the objective of the Safety Limit and assure the integrity of the fuel cladding.

None of these changes affect the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor do they affect any assumptions or conditions in any of the accident analyses. Since the accident analyses remain bounding, their radiological consequences are not adversely affected.

Therefore, the probability or consequences of an accident previously evaluated are not affected.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed changes do not involve a change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor do they affect any assumptions or conditions in any of the accident analyses. Accordingly, no new failure modes have been created for any plant system or component important to safety nor has any new limiting single failure been identified as a result of the proposed changes.

Therefore the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

One change involves a small conservative reduction in the reactor coolant system pressure limit. This change corrects a long standing minor discrepancy in the derivation of the numerical value of this limit of less than 0.3%. The correction is conservative.

Another change eliminates the extra 12 inches above the top of active fuel currently specified in the reactor water level Safety Limit. The additional 12 inches of water does not significantly contribute to fuel cooling under plant conditions for which the Safety Limit would be applicable. While the change in reactor water level represents a less restrictive limit, the proposed numerical value still ensures an adequate margin for core cooling and provides an adequate margin for effective action. The benefits gained from achievement of uniformity with the reactor water level Safety Limit established by the NRC for plants similar to Monticello outweigh any negative aspects of this change.

The remainder of the requested changes are administrative in nature or correct minor errors.

Therefore, a significant reduction in the margin of safety is not involved in the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Section Chief: Claudia M. Craig.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: June 18, 2001.

Description of amendment request: The proposed amendment will delete Technical Specification (TS) Sections 5.14.3 and 5.14.4, ''Post-Accident Radiological Sampling and Monitoring,'' requirements to maintain a Post Accident Sampling System (PASS). Licensees were generally required to implement PASS upgrades as a result of NUREG–0737, ''Clarification of TMI [Three Mile Island] Action Plan Requirements,'' and Regulatory Guide 1.97, Revision 3, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Access Plant and Environs Conditions During and Following an Accident.'' Implementation of these upgrades was an outcome of the NRC's lessons learned from the accident that occurred at TMI Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the TS for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 11, 2000 (65 FR 49271) on possible amendments to eliminate PASS, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in a license amendment application in the **Federal Register** on October 31, 2000 (65 FR 65018). The licensee affirmed the applicability of the following NSHC determination in its application dated June 18, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency

response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From any Previously Evaluated

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: James R. Curtiss, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Section Chief: Stephen Dembek.

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: May 24, 2001.

Description of amendment request: The Virgil C. Summer Nuclear Station (VCSNS) Technical Specifications (TS) Sections 4.2.2.2.e and g and 4.2.2.4.e and g would be changed to adopt a revised methodology that relocates the Heat Flux Hot Channel Factor $F_Q(z)$ penalty for increasing $F_Q(z)$ versus burnup to a table in the Core Operating Limits Report (COLR). Also proposed is an increase in the $F_Q(z)$ surveillance region to be consistent with the current core design and to provide assurance that the peak $F_Q(z)$ is monitored and evaluated near end of core life.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The proposed changes to the measurement and evaluation of the maximum $F_Q(z)$ will provide conservative limits for assuring the plant is operated in a safe and consistent manner. No changes are being made that could initiate an accident. The consequences of accidents previously evaluated are unaffected by these proposed changes as no change to equipment response or accident mitigation capabilities (including assessment capabilities) has occurred. The proposed changes have no impact on the principal safety barriers of the plant.

Therefore, the change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No.

The proposed changes decrease the size of the core region that is excluded from the evaluation of peak $F_Q(z)$ and relocate penalties from the TS to the COLR per an approved methodology. No new accident scenarios, failure mechanisms or limiting single failures are introduced as the result of this proposed change. This change does not challenge the integrity or performance of any safety-related system.

Therefore, the possibility of a new or different kind of accident is not created.

3. Does this change involve a significant reduction in margin of safety?

No.

The proposed change relocates the penalties associated with measuring $F_Q(z)$ and decreases the size of the core regions excluded from the TS required surveillance for peak $F_Q(z)$. There is no effect on the availability, operability, or performance of the safety-related systems, structures, or components. The margin of safety associated with the acceptance criteria for any accident is unchanged. All surveillances will be performed at their required frequencies and with the same acceptance criteria, which assures the plant conditions prior to transients, events, and accidents [remain] within the conditions assumed in the safety analyses.

The Bases of the TS are founded in part on the ability of the regulatory criteria being satisfied assuming limiting conditions for operation for various systems. Conformance to the regulatory criteria for operation with $F^M_Q(z)$ penalty factor relocation and the $F^M_Q(z)$ exclusion region changes is demonstrated, and the regulatory limits are not exceeded. Therefore, there is no significant reduction in the margin of safety resulting from the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas G. Eppink, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: Richard L. Emch, Jr.

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: June 19, 2001.

Description of amendment request: This proposed change supports the inclusion of the newer versions of the process rack circuit boards into the response time testing elimination population. These versions of the cards were not included in the original Failure Modes and Effect Analysis performed for WCAP–14036–P–A, Revision 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This change to the Technical Specifications (TS) does not result in a condition where the design, material, and construction standards that were applicable prior to the change are altered. The same [Reactor Trip System] RTS and [Engineered Safety Features Actuation System] ESFAS instrumentation is being used; the time response allocations/modeling assumptions in the Final Safety Analysis Report (FSAR) Chapter 15 analyses are still the same; only the method of verifying the time response is changed. The proposed change will not modify any system interface and could not increase the likelihood of an accident since these events are independent of this change. The proposed change will not change, degrade or prevent actions or alter any assumptions previously made in evaluating the radiological consequences of an accident described in the FSAR.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This change does not alter the performance of process protection racks, Nuclear Instrumentation, and/or logic systems used in the plant protection systems. These systems will still have response time verified by test before being placed in operational service. Changing the method of periodically verifying instrument[s] for these systems (assuring equipment operability) from response time testing to calibration and channel checks will not create any new accident initiators or scenarios. Periodic surveillance of these systems will continue and may be used to detect degradation that could cause the response time to exceed the total allowance. The total time response allowance for each function bounds all degradation that cannot be detected by periodic surveillance. Implementation of the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in margin of safety?

This change does not affect the total system response time assumed in the safety analysis. The periodic system response time verification method for the process protection racks, Nuclear Instrumentation, and logic systems is modified to allow the use of actual test data or engineering data. The method of verification still provides assurance that the total system response is within that defined in the safety analysis, since calibration tests will continue to be performed and may be used to detect any degradation which might cause the system response time to exceed the total allowance. The total response time allowance for each function bounds all degradation that cannot be detected by periodic surveillance. Based on the above, it is concluded that the proposed change does not result in a significant reduction in margin with respect to plant safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas G. Eppink, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: Richard L. Emch, Jr.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: June 27, 2001.

Description of amendment request: The proposed amendment would revise the Vogtle Electric Generating Plant (VEGP) Unit 1 and Unit 2 Technical Specifications Surveillance Requirement (SR) 3.8.1.13 frequency from once every 18 months (with a maximum of 22.5 months including the 25% grace period of SR 3.0.2) to once every 24 months (for a maximum of 30 months including the 25% grace period of SR 3.0.2). The proposed change would allow SR 3.8.1.13 to be performed following the Diesel Generator inspection/maintenance, which is performed at 24-month intervals in accordance with manufacturer recommendations. Similarly, the frequency of SR 3.8.1.14 would be revised from once every 18 months to once every 24 months. The proposed change would allow SR 3.8.1.14 to be performed following SR 3.8.1.13.

Bases for proposed no significant hazards consideration determination: As required by 10 CFR Part 50 the licensee has provided its analysis of the requested revision of the surveillance as an issue of no significant hazards consideration and is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The surveillance intervals associated with SRs 3.8.1.13 and 3.8.1.14 have no bearing on the likelihood of any of the initiating events assumed for any of the accidents previously evaluated. Therefore, increasing the intervals for SRs 3.8.1.13 and 3.8.1.14 do not involve a significant increase in the probability of any accident previously evaluated. The operability of the emergency diesel generators (DGs) will continue to be demonstrated by all of the other surveillance requirements associated with TS Limiting Condition for Operation (LCO) 3.8.1 which are not affected by the proposed change. Endurance and margin will continue to be demonstrated by SR 3.8.1.13, and hot restart functional capability will continue to be demonstrated by SR 3.8.1.14. The only difference will be the increased surveillance intervals, which have been shown to have a minimal impact on safety in accordance with Generic Letter 91–04. Therefore, the DGs will remain capable of performing their safety function as assumed in the accident analyses, and the proposed changes do not involve a significant increase in the consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

No. The proposed changes do not introduce any new equipment or create new failure modes for existing equipment. No new limiting single failure is created, and plant operation will not be altered. The DGs will remain capable of performing their safety function as assumed in the safety analyses. No other safety-related or important-to-safety equipment is affected by the proposed changes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The operability of the emergency diesel generators (DGs) will continue to be demonstrated by all of the other surveillance requirements associated with TS Limiting Condition to Operation (LCO) 3.8.1 which are not affected by the proposed changes. Endurance and margin and hot restart functional capability will continue to be demonstrated by SRs 3.8.1.13 and 3.8.1.14, respectively. The only difference will be the increased intervals, which have been shown to have a minimal impact on safety in accordance with Generic Letter 91–04. The proposed changes are consistent with current regulatory guidance and licensing actions for increasing TS surveillance intervals to accommodate operating cycles that have been extended to 24 months. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Section Chief: Richard L. Emch, Jr.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1 (WBN), Rhea County, Tennessee

Date of amendment request: May 14, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification Section 3.3.5,

''Loss of Power (LOP) Diesel Generator Start Instrumentation,'' to increase the time delay setting of the 6.9 kV Shutdown Board degraded voltage relays from a nominal 6 seconds to 10 seconds. This change will provide the plant with operating margin by allowing additional time for the Class 1E Auxiliary Power System to react to projected voltage transients on the offsite grid. This will aid in preventing unnecessary challenges to the WBN Class 1E power supply due to spurious relay actuations which result in automatic transfer from the WBN preferred offsite power supply to the emergency standby diesel generators.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The degraded voltage protection relays and associated time delay relays provided for each of the four 6.9 kV Shutdown Boards act to mitigate the consequences of previously analyzed accidents by detecting a sustained undervoltage condition, isolating the safety buses from offsite power, and starting the associated diesel generators. This safety function and logic of the degraded voltage relay circuits remains unchanged. The revised time delay setpoint will allow automatic load tap changers on CSSTs [Common Station Service Transformers] C and D additional time to react to voltage transients on the offsite grid. This will aid in preventing unnecessary relay actuation and isolation from offsite power sources, which in turn will reduce the probability of a loss of offsite power to the unit due to voltages transients on the offsite grid. The additional four second time delay does not introduce any new constraints that would prevent safety equipment from performing its designed function. The only impact to equipment previously evaluated is an increase in the exposure to a degraded voltage condition (for the loads fed from the 6.9 kV Shutdown Boards) for a duration of an additional four seconds. However, the required safety-related equipment would continue to operate throughout the 10 second delay. The proposed change will not contribute to any radiological dose during an accident. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The 6.9 kV Shutdown Power System will continue to function as specified in the design basis. The Class 1E loads supplied by the 6.9 kV Shutdown Boards will continue to be available to perform their intended safety function during the degraded voltage condition. The affected 6.9 kV Shutdown Boards will satisfactorily recover the voltage either by: (1) Stabilization of the offsite power grid if the degraded voltage condition is resolved within 10 seconds, or (2) transfer to emergency power if condition is present at the end of 10 seconds. There are no changes in the credible failure modes of the 6.9 kV Shutdown Boards (including the degraded voltage relays and timers) from those identified and evaluated previously in the FSAR [Final Safety Analysis Report]. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The ability of Class 1E loads fed from the 6.9 kV Shutdown Boards to perform their safety function is not compromised by this change. The lower boundary dropout and the upper reset setpoint of the degraded voltage relays remains unchanged. Increasing the delay time from 6 to 10 seconds will not change the voltage recovery profile. Analyses has shown that all motors will have adequate voltage to accelerate to their rated speed within their required times and therefore, there is no impact on operating equipment. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Patrick M. Madden, Acting.

Tennessee Valley Authority, Docket No. 50–390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: May 14, 2001.

Description of amendment request: The proposed amendment would revise the Watts Bar Nuclear Plant Unit 1 Technical Specifications (TS) and TS Bases to eliminate the requirements associated with core alterations from those limiting condition of operations (LCOs) that provide safety functions to mitigate the consequences of a fuel handling accident. The affected specifications are LCOs 3.3.6, 3.3.7, 3.7.10, 3.7.11, 3.9.4, 3.9.7, and 3.9.8.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision eliminates requirements associated with core alterations for specifications that are intended to mitigate the consequences of a fuel handling accident (FHA). These functions will not impact accident generation because their function is to support mitigation of accidents and they are not considered to be the source of a postulated accident. The removal of these actions affects functions that are not necessary during core alterations because postulated events during these activities do not have the potential to result in major fuel cladding damage like that assumed for an FHA. Therefore, there is no adverse impact to nuclear safety by eliminating core alteration requirements for specifications that provide for the mitigation of an FHA.

The proposed revision does not adversely alter any plant equipment or operating practices; therefore, the probability of an accident is not significantly increased. In addition, the consequences of an accident are not significantly increased by eliminating core alteration requirements for specifications that only support the mitigation of FHAs. This is based on sufficient safety function capabilities being available for the mitigation of an FHA or other potential events that could occur during core alteration activities.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed allowance to eliminate core alteration requirements for FHA related specifications will not adversely alter plant functions or equipment operating practices. The proposed elimination of core alteration requirements will not impact accident generation because these functions provide for FHA mitigation and are not postulated to be an initiator of postulated accidents. Therefore, since plant functions and equipment are not adversely affected and the availability of FHA mitigation functions do not contribute to the initiation of postulated accidents, the proposed revision will not create a new or different kind of accident.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The elimination of core alteration requirements for specifications that provide mitigation functions for FHAs will not affect the ability of these functions to perform as necessary. This is based on postulated events during core alteration not having the potential to result in fuel cladding damage that is assumed for the FHA and therefore, not requiring functions necessary to mitigate the FHA event. The proposed revision will continue to provide acceptable provisions for activities that could result in an FHA or events postulated during core alterations to maintain the necessary margin of safety.

Therefore, the margin of safety provided by specifications required for the mitigation of

FHAs is not significantly reduced by the proposed allowance to eliminate core alterations requirements.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Patrick M. Madden, Acting.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: June 21, 2001.

Description of amendment request: This amendment request proposes to revise the control rod block instrumentation requirements contained in Technical Specification (TS) 2.1.B, Figure 2.1.1, and Tables 3.2.5 and 4.2.5. Some of the control rod block trip functions are being relocated to the Vermont Yankee Technical Requirements Manual and some of the requirements for the retained trip functions are clarified. Two trip functions are added to the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The relocated trip functions are not assumed as initial conditions for, nor are they credited in the mitigation of, any design basis accident or transient previously evaluated. Since reactor operation with these revised and relocated Specifications is fundamentally unchanged, no design or analytical acceptance criteria will be exceeded. As such, this change does not impact initiators of analyzed events, nor the analyzed mitigation of design basis accident or transient events.

More stringent requirements that ensure operability of equipment and purely administrative changes do not affect the initiation of any event, nor do they negatively impact the mitigation of any event. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

None of the proposed changes affects any parameters or conditions that could contribute to the initiation of any accident. No new accident modes are created since plant operation is unchanged. No safety-related equipment or safety functions are altered as a result of these changes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

This change does not impact plant equipment design or operation, and there are no changes being made to safety limits or safety system settings that would adversely affect plant safety as a result of the proposed changes. Since the changes have no effect on any safety analysis assumptions or initial conditions, the margins of safety in the safety analyses are maintained. In addition, administrative changes that do not change technical requirements or meaning, and the imposition of more stringent requirements to ensure operability, have no negative impact on margins of safety. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Notice of Issuance of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items 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 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.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 14, 2000, as supplemented on May 3, 2001.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) to correct various editorial errors and make other administrative changes. Specifically, the amendment makes administrative changes that revise: (a) Tables 3.6–1 and 4.4–1 to correct listing and editorial errors, (b) TS 3.8.B.10 to reflect the wording in 10 CFR 50.54(m)(2)(iv), (c) Figures 3.10–2 through 3.10–6 to remove these figures, (d) Table 4.1–1 to reflect change in level indication components, (e) TS 4.19.B and 6.14.1.1 to correct editorial errors, (f) TS 6.12.1 to reflect an organizational title change, and (g) TS 6.13.2 to correct a typographical error. In the May 3 letter, the licensee requested that the proposed changes to TS 6.12.1 regarding references to the current sections of 10 CFR Part 20 be withdrawn.

Date of issuance: July 5, 2001.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 216.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications. *Date of initial notice in* **Federal Register:** February 21, 2001 (66 FR 11055).

The May 3, 2000, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 5, 2001.

No significant hazards consideration comments received: No.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: November 21, 2000.

Brief description of amendment: The amendment approves a change to the licensing basis to allow a 121-second delay in the timing of the release of fission products following design-basis accidents.

Date of issuance: July 12, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 143.

Facility Operating License No. NPF–43: Amendment revised the Updated Safety Analysis Report.

Date of initial notice in **Federal Register:** December 27, 2000 (65 FR 81914) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 12, 2001.

No significant hazards consideration comments received: No.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: December 20, 1999, as supplemented by letters dated November 29, 2000, and April 6, May 7, and June 7, 2001.

Brief description of amendment: The amendment changes River Bend Station (RBS) Technical Specification (TS) 3.6.1.3, ''Primary Containment Isolation Valves (PCIVs),'' to allow the Inclined Fuel Transfer System (IFTS) primary containment isolation blind flange to be removed during MODES 1, 2, or 3. In its application, the RBS licensee stated that, with the blind flange removed and certain restrictions and administrative controls in place, the IFTS penetration would continue to be provided through implementation of these additional controls.

Date of issuance: July 3, 2001.

Effective date: As of the date of issuance and shall be implemented 30 days from the date of issuance.

Amendment No.: 116.

Facility Operating License No. NPF–47: The amendment revised the TS.

Date of initial notice in **Federal Register:** January 26, 2000 (65 FR 4273).

The November 29, 2000, and April 6, May 7, and June 7, 2001, supplemental letters provided information that was within the scope of the original **Federal Register** notice and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 2001.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: May 3, 2001.

Brief description of amendment: The amendment deletes Technical Specification (TS) 6.8.4.d, ''Post-accident Sampling, for Waterford Steam Electric Station, Unit 3, and thereby eliminates the requirement to have and maintain the post-accident sampling system.

Date of issuance: July 3, 2001.

Effective date: As of the date of issuance and shall be implemented by February 28, 2002.

Amendment No.: 172.

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 30, 2001 (66 FR 29353).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 2001.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: July 26, 2000, as supplemented January 17, 2001, and April 17, 2001.

Brief description of amendments: Revised the Technical Specifications (TSs) Index to delete reference to the BASES since, in accordance with 10 CFR 50.36(a), the BASES are not a part of the TSs required by 10 CFR 50.36, and to include a ''Technical Specification (TS) Bases Control Program'' in the Administrative Controls Section of the TS.

Date of Issuance: July 12, 2001.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 176 and 117.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the TSs.

Date of initial notice in **Federal Register:** October 4, 2000 (65 FR 59222). The letters dated January 17, 2001, and April 17, 2001, contained clarifying information that did not affect the original proposed no significant hazards determination, or expand the scope of the request as noticed.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 12, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: March 5, 2001, as revised by letter dated March 30, 2001

Brief description of amendment: The amendment changes Technical Specification (TS) Section 5.5.12, ''Programs and Manuals—Technical Specifications (TS) Bases Control Program,'' in accordance with Nuclear Energy Institute TS Task Force (TSTF) Standard TS Change Traveler, TSTF–364, ''Revision to TS Bases Control Program to Incorporate Changes to 10 CFR 50.59,'' Revision 0.

Date of issuance: July 9, 2001.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 204.

Facility Operating License No. DPR–20. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 2001 (66 FR 22027).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 2001.

No significant hazards consideration comments received: No.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: February 14, 2001.

Brief description of amendment: The amendment makes minor revisions in the Ginna Station Improved Technical Specifications (ITS) format to allow for maintaining, viewing, and publishing

them with a different software package. The amendment also includes a revision to ITS Section 5.5.13, ''Technical Specifications (TS) Bases Control Program,'' to provide consistency with the changes to 10 CFR 50.59 as published in (64 FR 53852 dated October 4, 1999).

Date of issuance: June 26, 2001.

Effective date: June 26, 2001.

Amendment No.: 80.

Facility Operating License No. DPR–18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 21, 2001 (66 FR 15929).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 26, 2001.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 12, 2001.

Brief description of amendments: Revised the Technical Specifications (TS) and associated Bases to change the methodology and frequency for sampling the ice condenser ice bed (stored ice) and adds a new TS and associated bases to address sampling requirements for all ice additions to the ice bed.

Date of issuance: July 12, 2001.

Effective date: As of the date of issuance and shall be implemented within 45 days of issuance.

Amendment Nos.: 269 and 259.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** May 2, 2001 (66 FR 22033).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 12, 2001.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland this 17th day of July 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–18324 Filed 7–24–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Regulation A and Forms 1–A and 2–A, OMB Control No. 3235–0286, SEC File No. 270–110.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''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 for extension and approval.

Regulation A provides an exemption from registration under the Securities Act for certain limited securities offerings by issuers who do not otherwise file reports with the Commission. Form 1–A is an offering statement filed under Regulation A. Form 2–A. Form 2–A is used to report sales and use of proceeds in Regulation A offerings. Approximately 186 issuers file Forms 1–A and 2–A. It is estimated that Form 1–A takes 608 hours to prepare, Form 2–A takes 12 hours to prepare and Regulation A takes one administrative hour to review for a total of 621 hours per response. The total annual burden hours are 115,506. It is estimated that 75% of the 115,506 total burden hours (86,630 burden hours) would be prepared by the company.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques of other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: July 18, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18517 Filed 7–24–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25068; 812–12422]

Nationwide Mutual Funds and Villanova Mutual Fund Capital Trust

July 19, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a series of Nationwide Mutual Funds (''Nationwide'') to acquire substantially all of the assets, net of liabilities, of another series of Nationwide (the ''Reorganization''). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

FILING DATE: The application was filed on January 30, 2001. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with copies of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 13, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission 450 5th Street, NW., Washington, DC 20549–0609. Applicants, c/o Elizabeth A. Davin, Esq., Nationwide Mutual Funds, One Nationwide Plaza, 1–35–16, Columbus, Ohio 43215.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at

(202) 942–0634, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. Nationwide, an Ohio business trust, is an open-end management investment company registered under the Act. Nationwide currently offers thirty-nine series, including Nationwide Government Bond Fund (the ''Acquiring Fund'') and Nationwide Long-Term U.S. Government Bond Fund (the ''Acquired Fund,'' together with the Acquiring Fund, the ''Funds'').

2. Villanova Mutual Fund Capital Trust (''VMF'') is an investment adviser registered under the Investment Advisers Act of 1940 and serves as investment adviser to each Fund. VMF is a wholly-owned subsidiary of Villanova Capital, Inc., which is a subsidiary of Nationwide Financial Services (''NFS''). NFS controls Nationwide Life Insurance Company (''Nationwide Life''). As of June 15, 2001, Nationwide Life owned 5.9% of the Acquired Fund's shares. A separate account that funds the benefits provided under certain variable annuity contracts and/or variable life insurance contracts issued by Nationwide Life (''Separate Account'') owned 34.1% of the Acquiring Fund's shares as of June 15, 2001.

3. On December 15, 2000, the board of trustees of each Fund (each a ''Board,'' and together the ''Boards''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Disinterested Trustees''), approved an agreement and plan of reorganization entered into between the Funds (''Plan''). Under the Plan, on the date of the closing of the Reorganization (''Closing Date''), the Acquiring Fund will acquire all of the assets, net of liabilities, of the Acquired Fund in exchange for shares of designated classes of the Acquiring Fund that have a total net asset value equal to the total net asset value of the Acquired Fund's shares, determined as of the business day preceding the Closing Date (''Valuation Date''). The value of the assets of each Fund will be determined according to the respective Fund's then-current prospectus and statement of additional information. Following the Reorganization, the Acquired Fund will be liquidated. Applicants anticipate the Closing Date will be on or around August 15, 2001.

4. Applicants state that the investment objectives of the Acquired Fund are identical to those of the Acquiring Fund, and that their investment policies and strategies are substantially similar. The Funds each offer Class A, Class B and Class D shares. The Acquiring Fund also offers Class C shares, but these shares will not be exchanged in the Reorganization. Class A shares are subject to a front-end sales charge and a rule 12b–1 distribution fee, and in certain circumstances, a contingent deferred sales charge. Class B shares are subject to a contingent deferred sales charge and a rule 12b–1 distribution fee. Class D shares are only subject to a front-end sales charge. For purposes of calculating any deferred sales charge, shareholders of the Acquired Fund will be deemed to have held shares of the Acquiring Fund since the date the shareholders initially purchased shares of the Acquired Fund. No sales charges will be imposed in connection with the Reorganization. The Funds will bear half of the expenses of the Reorganization on a pro rata basis, and VMF will bear half of the Reorganization expenses.

5. The Boards, including a majority of the Disinterested Trustees, determined that the Reorganization was in the best interests of each Fund and its shareholders, and that the interests of each Fund's existing shareholders would not be diluted as a result of the Reorganization. In reviewing the Plan, the boards considered various factors, including: (a) The compatibility of the investment objectives, policies, restrictions and investments of the Funds; (b) the tax consequences of the Reorganization; (c) the comparative investment performance of the Funds; and (d) the expense ratios (after waivers and reimbursements) of both Funds and the pro forma expenses of the Acquiring Fund following the Reorganization.

6. The Reorganization is subject to a number of conditions, including that: (a) Each Fund's shareholders will have approved the Plan; (b) an N–14 registration statement relating to the Reorganization will have become effective with the Commission; (c) the Funds will have received an opinion of counsel concerning the tax-free nature of the Reorganization; (d) the Acquired Fund will have declared dividends and other distributions that are payable through the close of business on the Valuation Date; and (e) applicants will have received from the Commission the exemptive relief requested by the application.

7. The Plan may be terminated and the Reorganization abandoned at any time prior to the Closing Date by Nationwide, on behalf of either Fund, by resolution of the Fund's Board, if circumstances develop that, in the opinion of the Board, make proceeding with the Reorganization inadvisable. Applicants agree not to make any material changes to the Plan without prior approval of the Commission staff.

8. A registration statement on Form N–14 with respect to the Reorganization, containing a proxy statement/prospectus, was filed with the Commission and was mailed to each Fund's shareholders on or about February 5, 2001. A special meeting of the Funds' shareholders was held on March 9, 2001, and each Fund's shareholders approved the Plan.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

3. Applicants believe that rule 17a–8 may not be available to exempt the Reorganization because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that Nationwide Life owns more than 5% of the total outstanding shares of the Acquired Fund and may be deemed to control the Acquiring Fund because the Separate Account owns more than 25%

of the Acquiring Fund's shares. As a result, each Fund may be deemed to be an affiliated person of an affiliated person of the other Fund.

4. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) exempting them from section 17(a) to the extent necessary to complete the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(b). Applicants state that the terms of the Reorganization are reasonable and fair and do not involve overreaching. Applicants also state that the investment objectives of the Acquired Fund are identical to those of the Acquiring Fund, and that their investment policies and strategies and similar. Applicants further state that the Boards, including a majority of the Disinterested Trustees, found that the participation of the Funds in the Reorganization is in the best interests of each Fund and its shareholders and that such participation will not dilute the interests of the existing shareholders of each Fund. In addition, applicants state that the Reorganization will be on the basis of the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18518 Filed 7–24–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44573; File No. SR–NASD–2001–21]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Amendments to the Fee Structure of the Code of Arbitration Procedure

July 18, 2001.

I. Introduction

On March 23, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] proposed a rule change to amend Rule 10301 of the Code of Arbitration of the NASD, to amend the Code of Arbitration of Procedure (''Code'') to clarify or simplify several fee-related provisions of the Code.

On April 20, 2001, the NASD filed Amendment No. 1 to the proposal.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on April 30, 2001.[4] The Commission received one comment letter on the proposal.[5] On July 17, 2001, the NASD filed Amendment No. 2 to the proposal.[6] This notice and order approves the proposed rule change, as amended, and solicits comments from interested persons on Amendment No. 2.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Laura Leedy Gansler, Counsel, NASD Dispute Resolution, Inc., to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, dated April 19, 2001 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 44214 (April 24, 2001), 66 FR 21423.

[5] *See* letter from Linda P. Drucker, Vice President & Associate General Counsel, Charles Schwab, to Jonathan Katz, Secretary, Commission, dated May 22, 2001 (''Schwab Letter'').

[6] *See* letter from Laura Leedy Gansler, Counsel, NASD Dispute Resolution, Inc., to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission dated July 16, 2001 (''Amendment No. 2''). In Amendment No. 2, the NASD modify the proposed changes to Rule 10306 of the Code to clarify that parties will be responsible of payment of fees in the event of settlement in accordance with the terms of the Code.

II. Description of the Proposal

Rule 10306 of the Code relating to the assessment or payment of fees provides that parties to arbitrations may settle their dispute at any time. The proposed rule change amends Rule 10306 to provide that if settling parties fail to agree on the allocation of outstanding fees, the fees will be divided equally among all parties by default. The proposed rule change also modifies the timing of the payment of adjournment fees.

Rule 10319 of the Code currently requires parties requesting adjournment of an arbitration hearing to deposit a fee at the time the adjournment is requested. If the adjournment is not granted, the deposit is returned; if it is granted, the arbitrators may return the deposit in their discretion. The proposed rule change provides that payment of the adjournment fee is required only if an adjournment is granted, rather than requiring a deposit of fees when a request for adjournment is made. The proposed rule change also addresses a technical imperfection in the current adjournment fee rule. The current rule provides that, for initial adjournment requests, the fee is equal to the amount of the initial hearing session fee; for second or subsequent adjournment requests, the amount is twice the initial hearing session fee, but not more than $1,000. The Exchange represents that the intent of this portion of the current rule is to discourage repeat adjournments, by having second and subsequent adjournments cost substantially more than the first adjournment. When the NASD's new fee schedule went into effect in March 1999, hearing session fees were generally increased.[7] For several claim categories, the hearing session fee now exceeds $1,000, meaning that the rule as presently written can result in a lower fee for second and subsequent adjournments. To address this anomaly, the proposed rule change increases the current $1,000 cap to $1,500.

Finally, the proposed rule change amends Rule 10328 of the Code, governing amendments to pleadings, to clarify that when a claim is amended to increase the amount in dispute, NASD Dispute Resolution will recalculate filing fees, hearing session deposits, surcharges, and process fees based on the new, increased claim.

III. Summary of Comments

The Commission received one comment letter on the proposed rule

[7] *See* Securities Exchange Act Release No. 41056 (February 16, 1999), 64 FR 10041 (March 1, 1999) (File No. SR–NASD–97–79).

change.[8] The Commenter expressed concern that, as drafted, the amendment proposed by the NASD to Rule 10306(b) was a disincentive to settlement because parties would be obligated to pay for hearings that were scheduled months in advance if the case settled. In pertinent part, the proposed rule language stated:

The terms of a settlement agreement do not need to be disclosed to NASD Dispute Resolution. However, the parties will remain responsible for payment of fees incurred, including fees for previously scheduled hearing sessions.

The Commenter pointed out that one of the factors that contributes to the decision to settle a case is the desire to avoid fees and assessments. However, the Commenter felt that under the NASD's proposed language, parties who settled their case after a hearing was scheduled, but several months before the hearing was held, would necessarily incur hearing fees.

In response to the Commenter's concerns, the NASD submitted Amendment No. 1 to the proposed rule change.[9] In Amendment No. 1, the NASD noted that Rules 10332(f) and (g) of the Code provide that settling parties are only responsible for payment of hearing session fees for hearings held or scheduled within eight days of the date that NASD Dispute Resolution is notified of the settlement. Therefore, the NASD explained that under the current rule and the proposed rule change, settling parties would only be responsible for fees for hearing sessions that were held, or scheduled to be held, within eight days of the date the NASD Dispute Resolution receives notice of the settlement.

However, the NASD amended the proposed rule to eliminate any possible confusion regarding whether the proposed rule change would alter the Code's current provisions regarding what hearing session fees settling parties are required to pay. The NASD proposed to amend Rule 10306(b) to read, in pertinent part:

The terms of a settlement agreement do not need to be disclosed to the NASD Dispute Resolution. However, the parties will remain responsible for payment of fees incurred under the Code.[10]

IV. Discussion

After careful review, 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 association.[11] The Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that the Association's rules be designated to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Specifically, the Commission believes that the proposed rule change will help protect investors and the general public by simplifying and clarifying various fee-related provisions of the Code.

V. Amendment No. 2.

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In amendment No. 2, the Exchange clarified that the proposed rule change would not effect the applicability of the Code's current provisions regarding what hearing session fees settling parties are required to pay.

The Commission finds that the NASD's proposed change in Amendment No. 2 simply clarifies the proposed rule change and raises no new regulatory issues. Further, the Commission believes that Amendment No. 2 does not significantly alter the original proposal, which was subject to full notice and comment period. Therefore, the Commission finds that granting accelerated approval to Amendment No. 2 is appropriate and consistent with Section 19(b)(2) of the Act.[13]

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the proposed amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendment, all written statements with respect to the proposed amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD.

All submissions should refer to File No. SR–NASD–2001–21 and should be submitted by August 15, 2001.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NASD–2001–21), as amendment, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18445 Filed 7–24–01; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* note 4, *supra.*

[9] *See* note 5, *supra.*

[10] *See* note 4, *supra.*

[11] In approving this rule proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78*o*(b)(6).

[13] 15 U.S.C. 78s(b)(2).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release no. 34–44571; File No. SR–PCX–2001–21]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Relating to Membership, Options Floor and Market Maker Fees

July 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 31, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On July 12, 2001, the Exchange filed Amendment No. 1 to the proposal.[3] The Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated by July 11, 2001 (''Amendment No. 1''). In Amendment No. 1, the Exchange requested that the proposed rule change be considered a ''non-controversial'' rule change pursuant to paragraph (f)(6) of Rule 19b–4 under Section 19b–4(b)(3)(A)(iii) of the Act. In the Exchange's original filing, it had invoked Section 19(b)(3)(A)(ii) of the Act and Rule 19b–4(f)(2) thereunder as the basis for effectiveness upon filing of the proposed rule change. In addition, in

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 PCX is proposing to modify its Schedule of Fees and Charges for Market Maker Handheld Tethering Network Fees, Registered Representative Fees, and certain other fees designed to recover costs on leased space, phone maintenance and options orientation and test fees.

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 PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX 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 is proposing to make the following changes to its Schedule of Fees and Charges:

General Member Fees

(1) *Options Orientation and Test Fee:* The PCX incurs certain expenses in connection with administering orientations and test for new members. According to the Exchange, these costs, which are incurred as part of the investigation, orientation and testing process, are currently recovered via an options study package and test fee, an investigation fee and a fingerprinting fee. In order to consolidate these fees and cover additional cost of improving the orientation program, the Exchange proposes to increase the orientation and test fee from $200 to $1,000 and to eliminate the $100 investigation fee and the $30 and $10 fingerprinting fees. The fee increase is based on the costs incurred in providing an updated and more comprehensive curriculum. The additional costs include production, development, proctor fees and staff charges. The consolidated fee also recovers the revenues that were previously collected through the fingerprinting and investigation charges.

(2) *Regulatory Fees*

(i) *Registered Representative Fee* The Exchange currently charges an annual fee of $35 to all Register Representatives and Registered Option Principals for maintenance, new application, or transfer of registration status. This fee supports the costs related to regulatory oversight and enforcement. To better align PCX's fees with the actual costs of delivering these services, the Exchange proposes to increase the Registered Representative fee from $35 to $45 per year.

Options Floor Fees

(1) *Marker Maker Hand Held Tethering Fee*

Currently, Market Makers use portable hand held terminals for trade entry, position tracking, stock layoff and other services. To upgrade this system, the Exchange is installing a hardwired network. The Exchange proposes to impose a $500 one time signup fee per handheld and a $100 fee per registered user per month. These fees reflect the Exchange's costs of purchasing the hardware and installing the network.

(2) *Vendor Equipment Room Usage Fee*

The Vendor Equipment Room (''VER'') houses servers used to transmit market data and support trading systems. The PCX represents that currently the VER costs are not passed on to the member firms that use the facility. The VER overhead costs include rent, utilities, and insurance and the costs of developing the facility. In order to cover the costs of providing the facility, the Exchange proposes to impose on cabinet users a $2,150 fee per cabinet per month.[4]

(3) *Telecom Move/Add/Change Fee*

The Exchange incurs certain expenses in Moving/Adding or Changing (''MAC'') phone lines on the options floor. Currently, according to the PCX, the telecom MAC expenses are not passed on to the members requesting these services. In order to align fees with PCX's expenses incurred in delivering telecom MAC services, the Exchange proposes to assess a $100 per hour fee on a pro rata basis.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)[5] of the Act, in general, and Section 6(b)(4) of the Act,[6] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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 proposed rule change, as amended, has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6).[10]

The Exchange has requested that the Commission waive the 5-day pre-filing requirement and accelerate the operative date of the proposal. The Commission finds that it is appropriate to accelerate the operative date of the proposal and designate the proposal to become operative immediately.[11]

The Commission finds good cause for waiving the 5-day pre-filing requirement and accelerating the operative date of the proposed rule change, as amended. Acceleration of the operative date will enable the Exchange immediately to impose new fees in order to recover its costs incurred in development and

Amendment No. 1, the PCX requested that the Commission accelerate the operative date of the proposal and waive the 5-day pre-filing notice requirement.

[4] The Vendor Equipment Room is a recently-opened, air-conditioned facility housing equipment used by member firms and non-members that are vendors (collectively, cabinet users). The proposed fee on cabinet users in intended to recoup development costs and cover the ongoing costs of operating the facility. Telephone call from Cindy Sink, Senior Attorney, PCX, to Geoffrey Pemble, Attorney, Division of Market Regulation, Commission (July 10, 2001).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

maintenance or certain Exchange systems and services, consistent with the Section 6(b)(4) of the Act, which requires that an Exchange's rules provide for the equitable allocation of reasonable dues, fees, and other changes among members, issuers, and other persons using its facilities.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to be 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.[13]

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 tot he proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–21 and should be submitted by August 15, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18446 Filed 7–24–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before August 24, 2001. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: BusinessLINC Program.

No: 2184.

Frequency: On Occasion.

Description of Respondents: Small Business Owners.

Responses: 81.

Annual Burden: 4,200.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–18453 Filed 7–24–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3725]

Culturally Significant Objects Imported for Exhibition Determinations:''Masterpieces and Master Collectors: Impressionist and Early Modern Paintings From the Hermitage and Guggenheim Museums''

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibit ''Masterpieces and Master Collectors: Impresssionist and Early Modern Paintings from the Hermitage and Guggenheim Museums,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects will be imported pursuant to a loan agreement with a foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Guggenheim Hermitage Museum in Las Vegas, NV, from on or about September 16, 2001, to on or about March 17, 2002, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: July 19, 2001.

Brian J. Sexton,

Deputy Assistant Secretary for Professional Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 01–18569 Filed 7–24–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–53]

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

[12] 15 U.S.C. 78f(b)(4).

[13] For purposes of calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on July 12, 2001, the date the PCX filed Amendment No. 1.

[14] 17 CFR 200.30–3(a)(12).

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 July 20, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9795.
Petitioner: DB Airfreight, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit DBAI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 07/09/2001, Exemption No. 7567.*

Docket No.: FAA–2001–9860.
Petitioner: TDL Aero Enterprises.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit TDL to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 07/09/2001, Exemption No. 7568.*

Docket No.: FAA–2001–9901.
Petitioner: Inflight Corporation dba Cape Air Charter.
Section of 14 CFR Affected: 14 CFR 135.143 (c)(2).
Description of Relief Sought/Disposition: To permit CAC to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 07/09/2001, Exemption No. 7565.*

Docket No.: FAA–2000–8498.
Petitioner: Sensenich Wood Propeller Company, Inc.
Section of 14 CFR Affected: 14 CFR 45.11(b).
Description of Relief Sought/Disposition: To permit Sensenich to stamp the part marking information on the propeller hub to meet the requirement for fireproof identification on propellers, instead of attaching a metal tag with the required information. *Grant, 06/29/2001, Exemption No. 7559.*

Docket No.: FAA–2001–7997.
Petitioner: George T. Baker Aviation School.
Section of 14 CFR Affected: 14 CFR 65.17(a), 65.19(b), 65.75.
Description of Relief Sought/Disposition: To allow Baker Aviation School to (1) administer FAA oral and practical tests to its students at times and places identified in its FAA-approved Operations Handbook, (2) approve students for retesting within 30 days after failure without requiring a signed statement certifying that additional instruction has been given in the failed area, (3) conduct oral and practical mechanic tests as an integral part of the education process rather than upon students' successful completion of the mechanic written tests, and (4) administer the AMG written knowledge test to students immediately following the successful completion of the general curriculum, but before meeting the requirements of § 65.77. *Grant, 06/29/2001, Exemption No. 7560.*

Docket No.: FAA–2001–8945 (previously Docket No. 26608).
Petitioner: Phillips Alaska, Inc. and British Petroleum Exploration, Inc.
Section of 14 CFR Affected: 14 CFR 43.3(a), 43.7(a), 91.407(a)(2)(v), 91.417(a)(2)(v), and 121.379.
Description of Relief Sought/Disposition: To (1) permit PAI and BPX to use the approved maintenance recordkeeping procedures for Alaska Airlines, Inc., for Boeing 737–200 aircraft leased and operated by PAI and BPX, and (2) permit ASA to perform maintenance, preventive maintenance, alterations, inspections, major repairs, and major alterations, and subsequently return such aircraft to service in accordance with Asao's continuous airworthiness maintenance program and maintenance procedures. *Grant, 06/13/2001, Exemption No. 5667E.*

Docket No.: 29825.
Petitioner: Jamco America, Inc.
Section of 14 CFR Affected: 14 CFR 21.325(b)(3).
Description of Relief Sought/Disposition: To permit Jamco to issue export airworthiness approvals for Class II and Class III products manufactured and located at Jamco Corporation's facilities in Tokyo, Japan. *Grant, 06/20/2001, Exemption No. 7549.*

Docket No.: FAA–2001–9103.
Petitioner: Empress Brasielira de Aeronautic S.A. (EMBRAER)
Section of 14 CFR Affected: 14 CFR 36.9(e)(1).
Description of Relief Sought/Disposition: To allow EMBRAER the 1–g stall speed currently used for the 14 CFR part 25 airworthiness certification to also be used for the 14 CFR part 36 noise certification for the approach reference and test limitations on the EMBRAER EMB–135KE/KL and –135BJ model airplanes. *Grant, 06/29/2001, Exemption No. 7554.*

Docket No.: FAA–2001–9029 (previously Docket No. 27601).
Petitioner: Austal Lineas Aereas.
Section of 14 CFR Affected: 14 CFR 145.47(b).
Description of Relief Sought/Disposition: To permit ALA to substitute the calibration standards of the Instituto Nacional de Technología Industrial, Argentina's national standards Organization, for the calibration standards of the U.S. National Institute of Standards and Technology, formerly the National Bureau of Standards, to test its inspection and test equipment. *Grant, 06/28/2001, Exemption No. 6651B.*

[FR Doc. 01–18544 Filed 7–24–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–54]

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 July 20, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9101.

Petitioner: Associated Air Center.

Section of 14 CFR Affected: 14 CFR 25.813(e).

Description of Relief Sought/Disposition: To permit installation of interior doors between passenger compartments on the Boeing Model 737–2H4 airplane. *Grant, 07/03/2001, Exemption No. 7561.*

Docket No.: FAA–2000–8344.

Petitioner: Mr. Rudy E. Mack, Sr.

Section of 14 CFR Affected: 14 CFR 121.383(c).

Description of Relief Sought/Disposition: To permit Mr. Mack to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. *Denial, 06/29/2001, Exemption No. 7556.*

Docket No.: FAA–2001–9115.

Petitioner: Mr. Pedro Dove.

Section of 14 CFR Affected: 14 CFR 121.383(c).

Description of Relief Sought/Disposition: To permit Mr. Dove to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. *Denial, 06/29/2001, Exemption No. 7555.*

Docket No.: FAA–2001–9283.

Petitioner: Atlantic Coast Airlines.

Section of 14 CFR Affected: 14 CFR 121.411, 121.413, 121.434, 121.440, and 121.441.

Description of Relief Sought/Disposition: To permit ACA and its pilots to count certain part 121 training, checking, and experience acquired or accomplished for pilots and check airmen on the Fairchild-Dornier 328–300Jet while those pilots or check airmen were employed by Atlantic Coast Jet, Inc., as if that training, checking, and experience were accomplished at ACA. *Grant, 06/29/2001, Exemption No. 7539A.*

Docket No.: FAA–2001–8862 (previously Docket No. 22706).

Petitioner: Bankair, Inc.

Section of 14 CFR Affected: 14 CFR 135.255(e)(1).

Description of Relief Sought/Disposition: To permit Bankair pilots to operate Bankair aircraft at any U.S. military base that has adopted the criteria contained in the U.S. Standard for Terminal Instrument Procedures used for determining lower-than-standard departure minimums using takeoff visibility minimum that are less than 1 mile and equal to or greater than the landing visibility minimums established for those airfields. *Grant, 06/29/2001, Exemption No. 6661B.*

Docket No.: FAA–2001–8939 (previously Docket No. 23477).

Petitioner: Experimental Aircraft Association.

Section of 14 CFR Affected: 14 CFR 103.1(a) and (e)(1) through (e)(4).

Description of Relief Sought/Disposition: To permit EAA to permit individuals authorized by EAA to give instruction in powered ultralights that have a maximum empty weight of not more than 496 pounds, have a maximum fuel capacity of not more than 10 U.S. gallons, are not capable of more than 75 knots calibrated airspeed at full power in level flight, and have a power-off stall speed that does not exceed 35 knots calibrated airspeed. *Grant, 06/29/2001, Exemption No. 3784J.*

Docket No.: FAA–2000–8086.

Petitioner: Frontier Flying Service, Inc.

Section of 14 CFR Affected: 14 CFR 119.67(a)(3)(i).

Description of Relief Sought/Disposition: To permit Mr. Robert Hajdukovich to serve as Director of Operations of FFS without having at least 3 years experience, within the last 6 years, as pilot in command of a large airplane operated under 14 CFR part 121 or part 135. *Grant, 06/29/2001, Exemption No. 7557.*

Docket No.: FAA–2001–9379 (previously Docket No. 22451).

Petitioner: Air Transportation Association of America.

Section of 14 CFR Affected: 14 CFR 121.613, 121.619(a), and 121.625.

Description of Relief Sought/Disposition: To permit ATA-member airlines and other similarly situated part 121 operators to continue to dispatch airplanes under instrument flight rules when conditional language in a one-time increment of the weather forecast states that the weather at the destination airport, alternate airport, or both airports could be below the authorized weather minimums when other time increments of the weather forecast state that weather conditions will be at or above the authorized weather minimums. *Grant, 06/29/2001, Exemption No. 3585M.*

[FR Doc. 01–18545 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–55]

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 to FAA's regulatory activities. Neither publication of this notice nor the inclusion of 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 July 20, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 30160.

Petitioner: Raytheon Aircraft Parts Inventory & Distributions Co.

Section of 14 CFR Affected: 14 CFR 21.323(b).

Description of Relief Sought/Disposition: To permit RAPID to issue export airworthiness approvals for Class III products without meeting the eligibility requirements of § 21.323(b). *Denial, 06/29/2001, Exemption No. 7558.*

Docket No.: 30034.

Petitioner: Coalition of Airline Pilots Association.

Section of 14 CFR Affected: 14 CFR 61.23(c).

Description of Relief Sought/Disposition: To extend the duration of first-class medical certificates from 6 months to 1 year for all airline transport pilots who are currently, or who will in the future become, members of CAPA.

Denial, 07/06/2001, Exemption No. 7563.

Docket No.: FAA–2001–8878 (previously Docket No. 29207).

Petitioner: American Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/ Disposition: To permit American to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot-in-command (PIC) while that PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing when completing initial or upgrade training specified in § 121.424. *Grant, 07/06/2001, Exemption No. 6916A.*

Docket: FAA–2001–9641.

Petitioner: Rhoades Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.152(a).

Description of Relief Sought/ Disposition: To permit Rhoades to operate one Douglas DC–3TP airplane (Registration No. N376AS) without that airplane being equipped with an approved digital flight data recorder that is capable of recording propeller speed or TE flaps. *Grant, 07/06/2001, Exemption No. 7562.*

Docket: FAA–2001–8942.

Petitioner: Aerotech of Louisville.

Section of 14 CFR Affected: 14 CFR 145.45(f).

Description of Relief Sought/ Disposition: To permit Aerotech to place and maintain its inspection procedures manual (IPM) in fixed locations within its repair station facility rather than giving a copy of its IPM to each of its supervisory and inspection personnel. *Grant, 05/10/2001, Exemption No. 7535.*

Docket No.: FAA–2001–9097 (previously Docket No. 27205).

Petitioner: Federal Express Corporation.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit FedEx to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 07/09/ 2001,* Exemption No. 5711F.

Docket No.: FAA–2001–9232 (previously Docket No. 29618).

Petitioner: Blatti Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Blatti to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 07/09/ 2001, Exemption No. 6957A.*

Docket No.: FAA–2001–9788.

Petitioner: Industrial Helicopters, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit IHI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 07/09/ 2001, Exemption No. 7566.*

Docket No.: FAA–2001–9790.

Petitioner: Cornerstone Air Charter, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit CACI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 07/09/ 2001, Exemption No. 7564.*

[FR Doc. 01–18546 Filed 7–24–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34066]

City of Peoria, IL—Acquisition and Operation Exemption—Union Pacific Railroad Company

City of Peoria, IL (City), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Union Pacific Railroad Company (UP) and operate a 1.9-mile line of railroad, commonly known as the Pioneer Industrial Lead (Lead),[1] that extends easterly from UP's Peoria Subdivision, at approximately milepost 71.5, to the end of a track, a short distance west of University Avenue, in the City of Peoria, Peoria County, IL.[2]

The transaction was scheduled to be consummated on July 10, 2001 (7 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34066 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, Esq., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1194.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: July 18, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–18570 Filed 7–24–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The City notes that the Lead is not delineated by milepost numbers.

[2] The City indicates that there are no active shippers presently on the Lead and that, if the City were called upon to operate the Lead, it would do so or would arrange for a rail operator to do so.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 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 August 24, 2001 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0561.

Form Number: ATF Form 5013.1.

Type of Review: Extension.

Title: Electronic Filing User Access Enrollment Form.

Description: This form will be used in a pilot program for electronic filing of ATF forms. The pilot is being developed by ATF and Treasury's Financial Management Service. Participants will need to complete the form to be granted a password to access the e-filing system.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 25.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 7 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.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 01–18540 Filed 7–24–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds—Terminations: Charter Oak Fire Insurance Company (The), Chartwell Insurance Company, GE Reinsurance Corporation, Hartford Underwriters Insurance Company, Insurance Corporation of New York (The), Pacific Insurance Company, Limited, Preferred National Insurance Company, SAFECO Insurance Company of Illinois, SAFECO National Insurance Company, SCOR Reinsurance Company, Sentinel Insurance Company, LTD, Travelers Indemnity Company of America (THE), Travelers Indemnity Company of Connecticut (The), Travelers Indemnity Company of Illinois (The), Trumbull Insurance Company, Twin City Fire Insurance Company, Underwriters Reinsurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 23 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000, at 64 FR 35864.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificates of Authority issued by the Treasury to the above named Companies, under the United States Code, Title 31, Sections 9304–9308, to qualify as acceptable sureties on Federal bonds was terminated effective June 30, 2001.

The Companies were last listed as acceptable sureties on Federal bonds at 65 FR starting on page 40868, June 30, 2000.

With respect to any bonds currently in force with above listed Companies, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from these Companies. In addition, bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 48000–00527–6.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: June 30, 2001.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 01–18541 Filed 7–24–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8817

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8817, Allocation of Patronage and Nonpatronage Income and Deductions.

DATES: Written comments should be received on or before September 24, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Allocation of Patronage and Nonpatronage Income and Deductions.

OMB Number: 1545–1135.

Form Number: Form 8817.

Abstract: Form 8817 is filed by taxable farmers cooperatives to report their income and deductions by patronage and nonpatronage sources. The IRS uses the information on the form to ascertain whether the amounts of patronage and nonpatronage income or loss were properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 1,650.

Estimated Time Per Respondent: 13 hrs., 20 min.

Estimated Total Annual Burden Hours: 22,006.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 16, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–18418 Filed 7–24–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5074

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5074, Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands (CNMI).

DATES: Written comments should be received on or before September 24, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands (CNMI).

OMB Number: 1545–0803

Form Number: Form 5074.

Abstract: Form 5074 is used by U.S. citizens or residents as an attachment to Form 1040 when they have $50,000 or more in adjusted gross income from U.S. sources and $5,000 or more in gross income from Guam or the Commonwealth of the Northern Mariana Islands (CNMI). The data is used by IRS to allocate income tax due to Guam or the CNMI as required by 26 U.S.C. 7654.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 4 hrs., 11 min.

Estimated Total Annual Burden Hours: 209.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 16, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–18419 Filed 7–24–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–276–76]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–276–76 (TD 8586), Treatment of Gain From Disposition of Certain Natural Resource Recapture Property (Sections 1.1254–1(c)(3) and 1.1254–5(d)(2)).

DATES: Written comments should be received on or before September 24, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha Brinson (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Gain From Disposition of Certain Natural Resource Recapture Property.

OMB Number: 1545–1352.

Regulation Project Number: PS–276–76

Abstract: This regulation prescribes rules for determining the tax treatment of gain from the disposition of natural resource recapture property in accordance with Internal Revenue Code section 1254. Gain is treated as ordinary income in an amount equal to the intangible drilling and development costs and depletion deductions taken with respect to the property. The information that taxpayers are required to retain will be used by the IRS to determine whether a taxpayer has properly characterized gain on the disposition of section 1254 property.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material

in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–18420 Filed 7–24–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8847

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8847, Credit for Contributions to Selected Community Development Corporations.

DATES: Written comments should be received on or before September 24, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Credit for Contributions to Selected Community Development Corporations.

OMB Number: 1545–1416.

Form Number: Form 8847.

Abstract: Internal Revenue Code section 38 allows a credit for contributions to selected community development corporations as part of the general business credit. Form 8847 is used to compute the amount of the credit for qualified contributions to a selected community development corporation.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 34.

Estimated Time Per Respondent: 7 hrs., 39 min.

Estimated Total Annual Burden Hours: 260.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–18421 Filed 7–24–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before August 24, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.*

Public Inspection: Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reference Room, 1700 G St., NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to, or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) Appointments will be scheduled on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive your request.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB,

contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Financial Management Policies '' Interest Rate Risk.

OMB Number: 1550–0094.

Form Number: N/A.

Regulation requirement: 12 CFR 563.176.

Description: Savings association management of interest-rate risk.

Type of Review: Renewal.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 965.

Estimated Frequency of Response: Quarterly and annually.

Estimated Burden Hours per Response: 55.

Estimated Total Burden: 53,075.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 17, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–18456 Filed 7–24–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before August 24, 2001.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.*

Public Inspection: Comments and the related index will be posted on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reference Room, 1700 G St., NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to, or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) Appointments will be scheduled on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive your request.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202)–906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Deposits and Savings Accounts by Office.

OMB Number: 1550–0004.

Form Number: OTS 248.

Description: Provides deposit data essential for analysis of market share of deposits required to evaluate competitive impact of mergers, acquisitions, and branching applications on which the OTS must act.

Type of Review: Renewal.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1068.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: 1.

Estimated Total Burden: 1068 hours.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 19, 2001.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 01–18457 Filed 7–24–01; 8:45 am]

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Federal Register

Wednesday,
July 25, 2001

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 862 et al.

Medical Devices; Exemption From Premarket Notification Requirements; Class I Devices; Technical Amendment; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, and 892

[Docket No. 01N–0073]

Medical Devices; Exemption From Premarket Notification Requirements; Class I Devices; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the language in its medical device classification regulations for class I devices for consistency, to include in sections where it was not present, a specific reference to the limitations on exemptions from premarket notification requirements for each generic device classified. The specific reference language was included when some class I generic devices were first exempted under provisions of the Food and Drug Administration Modernization Act of 1997 (FDAMA). These amendments will provide the same reference for devices that were exempted before that time. The language is intended to conveniently provide the reference, and make the sections clear and easy to read. The status of the devices is not being changed.

DATES: This rule is effective July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 513 of the act (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the 1976 amendments (Public Law 94–295), as amended by the SMDA (Public Law 101–629), devices are to be classified into class I (general controls) if there is information showing that the general controls of the act are sufficient to ensure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life-sustaining or life-supporting device, or is for a use which is of substantial importance in preventing impairment of human health, or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices) are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Section 510(k) of the act and the implementing regulations in 21 CFR part 807 require persons who intend to market a new device to submit a premarket notification report (510(k)) containing information that allows FDA to determine whether the new device is substantially equivalent within the meaning of section 513(i) of the act to a legally marketed device that does not require premarket approval. Unless exempted from premarket notification requirements, persons may not market a new device under section 510(k) of the act, unless they receive a substantial equivalence order from FDA or an order reclassifying the device into class I or class II, under section 513(f) of the act.

On November 21, 1997, the President signed FDAMA into law (Public Law 105–115). Section 206 of FDAMA, in part, added a new section 510(l) to the act. New section 510(l) of the act became effective February 19, 1998. It provides that a class I device is exempt from the premarket notification requirements under section 510(k) of the act, unless the device is intended for a use that is of substantial importance in preventing impairment of human health or it presents a potential unreasonable risk of illness or injury.

To implement this provision, FDA evaluated all class I devices to determine which device types should become exempt under new provision 510(l) of the act and which device types should remain subject to the requirements of 510(k) of the act. FDA then amended its classification regulations, in part, by publishing in the **Federal Register** of February 2, 1998 (63 FR 5387), a list of certain class I devices that would become exempt from 510(k) requirements on February 19, 1998, subject, however to the limitations found in each classification regulation section (e.g., 21 CFR 862.9, 864.9, etc.), 63 FR 5387, February 2, 1998. The limitations language of each classification states that if a class I or II devices is intended for a use different from that of a legally marketed device in that generic type, or if the modified device operates using a different fundamental scientific technology than that of a legally marketed device in that generic type, a new 510(k) submission and clearance is required. The limitations language also lists specific intended uses for in vitro diagnostics devices that would preclude an exemption from the requirements of 510(k). FDA issued a proposed rule in the **Federal Register** of November 12, 1998 (63 FR 63222), to designate class I devices that are exempt from the premarket notification requirements, subject to certain limitations, and to designate class I devices that remain subject to premarket notification requirements under the new statutory criteria. The designations of these devices were codified by a final rule in the **Federal Register** of January 14, 2000 (65 FR 2296).

As published in the January 14, 2000, **Federal Register**, the amendments state, in part, that the limitations in each classification regulation apply to the premarket notification exemptions for each generic device classified in each section. In addition to mentioning the limitations generally in each classification regulation, FDA noted in the **Federal Register** of January 14, 2000, publication that, for clarity and convenience, the classification section for each generic device newly exempted under section 510(l) of the act specifically states that the exemptions are subject to limitations. The agency further noted that for individual device classification sections that had been codified previously as exempt from premarket notification requirements, it would add the same subject-to-limitations language in the future. These amendments now add that language. For example, with this regulation, 21 CFR 862.1190 states that the copper test system ''is exempt from the premarket notification procedures in subpart E of part 807 of this chapter *subject to the limitations in § 862.9.*'' (Emphasis added.) FDA is adding this specific reference to the limitations for

consistency, clarity, and convenience. The status of the devices is not changing.

This document is published as a final rule with the effective date shown under the **DATES** section above. FDA has already established by regulation that exemptions from premarket notification are subject to certain limitations (e.g., 21 CFR 862.9). This rule merely cross-references, for clarity and convenience, in individual classification regulations the sections that establish these limitations. FDA, therefore, has determined that this final rule has no substantive impact on the public. FDA, therefore, for good cause, finds under 5 U.S.C. 553(b)(3)(B) and (d)(3) that notice and public comment are unnecessary and that this rule may take effect upon publication.

II. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impacts

FDA has examined the impact of the rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, this rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule does not change the status quo for these devices, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for the final rule, because the final rule is not expected to result in any 1-year expenditure that would exceed $100 million.

IV. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects

21 CFR Parts 862, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 888, and 890

Medical devices.

21 CFR Part 864

Biologics, Blood, Laboratories, Medical devices, Packaging and containers.

21 CFR Part 886

Medical devices, Ophthalmic goods and services.

21 CFR Part 892

Medical devices, Radiation protection, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, and 892 are amended as follows:

PART 862—CLINICAL CHEMISTRY AND CLINICAL TOXICOLOGY DEVICES

1. The authority citation for 21 CFR part 862 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 862.1190 is amended by revising paragraph (b) to read as follows:

§ 862.1190 Copper test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

3. Section 862.1210 is amended by revising paragraph (b) to read as follows:

§ 862.1210 Creatine test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

4. Section 862.1255 is amended by revising paragraph (b) to read as follows:

§ 862.1255 2,3-Diphosphoglyceric acid test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

5. Section 862.1290 is amended by revising paragraph (b) to read as follows:

§ 862.1290 Fatty acids test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

6. Section 862.1305 is amended by revising paragraph (b) to read as follows:

§ 862.1305 Formiminoglutamic acid (FIGLU) test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

7. Section 862.1320 is amended by revising paragraph (b) to read as follows:

§ 862.1320 Gastric acidity test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

8. Section 862.1365 is amended by revising paragraph (b) to read as follows:

§ 862.1365 Glutathione test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9

9. Section 862.1380 is amended by revising paragraph (b) to read as follows:

§ 862.1380 Hydroxybutyric dehydrogenase test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

10. Section 862.1420 is amended by revising paragraph (b) to read as follows:

§ 862.1420 Isocitric dehydrogenase test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

11. Section 862.1470 is amended by revising paragraph (b) to read as follows:

§ 862.1470 Lipid (total) test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

12. Section 862.1490 is amended by revising paragraph (b) to read as follows:

§ 862.1490 Lysozyme (muramidase) test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

13. Section 862.1515 is amended by revising paragraph (b) to read as follows:

§ 862.1515 Nitrogen (amino-nitrogen) test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

14. Section 862.1565 is amended by revising paragraph (b) to read as follows:

§ 862.1565 6-Phosphogluconate dehydrogenase test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

15. Section 862.1575 is amended by revising paragraph (b) to read as follows:

§ 862.1575 Phospholipid test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

16. Section 862.1640 is amended by revising paragraph (b) to read as follows:

§ 862.1640 Protein-bound iodine test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

17. Section 862.1670 is amended by revising paragraph (b) to read as follows:

§ 862.1670 Sorbitol dehydrogenase test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

18. Section 862.1720 is amended by revising paragraph (b) to read as follows:

§ 862.1720 Triose phosphate isomerase test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 subject to the limitations in § 862.9.

19. Section 862.1815 is amended by revising paragraph (b) to read as follows:

§ 862.1815 Vitamin E test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 subject to the limitations in § 862.9.

20. Section 862.2050 is amended by revising paragraph (b) to read as follows:

§ 862.2050 General purpose laboratory equipment labeled or promoted for a specific medical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is identified in paragraph (a) of this section and is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

21. Section 862.2100 is amended by revising paragraph (b) to read as follows:

§ 862.2100 Calculator/data processing module for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

22. Section 862.2230 is amended by revising paragraph (b) to read as follows:

§ 862.2230 Chromatographic separation material for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

23. Section 862.2310 is amended by revising paragraph (b) to read as follows:

§ 862.2310 Clinical sample concentrator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

24. Section 862.2320 is amended by revising paragraph (b) to read as follows:

§ 862.2320 Beta or gamma counter for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

25. Section 862.2485 is amended by revising paragraph (b) to read as follows:

§ 862.2485 Electrophoresis apparatus for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

26. Section 862.2720 is amended by revising paragraph (b) to read as follows:

§ 862.2720 Plasma oncometer for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

27. Section 862.2800 is amended by revising paragraph (b) to read as follows:

§ 862.2800 Refractometer for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 862.9.

28. Section 862.2920 is amended by revising paragraph (b) to read as follows:

§ 862.2920 Plasma viscometer for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in

subpart E of part 807 of this chapter subject to the limitations in § 862.9.

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

29. The authority citation for 21 CFR part 864 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

30. Section 864.1850 is amended by revising paragraph (b) to read as follows:

§ 864.1850 Dye and chemical solution stains.

* * * * *

(b) *Classification.* Class I (general controls). These devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9. These devices are also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

31. Section 864.2220 is amended by revising paragraph (b) to read as follows:

§ 864.2220 Synthetic cell and tissue culture media and components.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

32. Section 864.2240 is amended by revising paragraph (b) to read as follows:

§ 864.2240 Cell and tissue culture supplies and equipment.

* * * * *

(b) *Classification.* Class I (general controls). These devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9. If the devices are not labeled or otherwise represented as sterile, they are exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

33. Section 864.2260 is amended by revising paragraph (b) to read as follows:

§ 864.2260 Chromosome culture kit.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

34. Section 864.2360 is amended by revising paragraph (b) to read as follows:

§ 864.2360 Mycoplasma detection media and components.

* * * * *

(b) *Classification.* Class I (general controls). These devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

35. Section 864.2800 is amended by revising paragraph (b) to read as follows:

§ 864.2800 Animal and human sera.

* * * * *

(b) *Classification.* Class I (general controls). These devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

36. Section 864.2875 is amended by revising paragraph (b) to read as follows:

§ 864.2875 Balanced salt solutions or formulations.

* * * * *

(b) *Classification.* Class I (general controls). These devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

37. Section 864.3010 is amended by revising paragraph (b) to read as follows:

§ 864.3010 Tissue processing equipment.

* * * * *

(b) *Classification.* Class I (general controls). These devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9. The devices are also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

38. Section 864.3300 is amended by revising paragraph (b) to read as follows:

§ 864.3300 Cytocentrifuge.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

39. Section 864.3400 is amended by revising paragraph (b) to read as follows:

§ 864.3400 Device for sealing microsections.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

40. Section 864.3600 is amended by revising paragraph (b) to read as follows:

§ 864.3600 Microscopes and accessories.

* * * * *

(b) *Classification.* Class I (general controls). These devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

41. Section 864.3800 is amended by revising paragraph (b) to read as follows:

§ 864.3800 Automated slide stainer.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

42. Section 864.3875 is amended by revising paragraph (b) to read as follows:

§ 864.3875 Automated tissue processor.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

43. Section 864.4010 is amended by revising paragraph (b) to read as follows:

§ 864.4010 General purpose reagent.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

44. Section 864.4400 is amended by revising paragraph (b) to read as follows:

§ 864.4400 Enzyme preparations.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

45. Section 864.5350 is amended by revising paragraph (b) to read as follows:

§ 864.5350 Microsedimentation centrifuge.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

46. Section 864.5800 is amended by revising paragraph (b) to read as follows:

§ 864.5800 Automated sedimentation rate device.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

47. Section 864.5850 is amended by revising paragraph (b) to read as follows:

§ 864.5850 Automated slide spinner.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

48. Section 864.6160 is amended by revising paragraph (b) to read as follows:

§ 864.6160 Manual blood cell counting device.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

49. Section 864.6600 is amended by revising paragraph (b) to read as follows:

§ 864.6600 Osmotic fragility test.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

50. Section 864.6700 is amended by revising paragraph (b) to read as follows:

§ 864.6700 Erythrocyte sedimentation rate test.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

51. Section 864.7660 is amended by revising paragraph (b) to read as follows:

§ 864.7660 Leukocyte alkaline phosphatase test.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

52. Section 864.7675 is amended by revising paragraph (b) to read as follows:

§ 864.7675 Leukocyte peroxidase test.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

53. Section 864.7900 is amended by revising paragraph (b) to read as follows:

§ 864.7900 Thromboplastin generation test.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

54. Section 864.8200 is amended by revising paragraph (b) to read as follows:

§ 864.8200 Blood cell diluent.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

55. Section 864.8500 is amended by revising paragraph (b) to read as follows:

§ 864.8500 Lymphocyte separation medium.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

56. Section 864.8540 is amended by revising paragraph (b) to read as follows:

§ 864.8540 Red cell lysing reagent.

* * * * *

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 864.9.

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

57. The authority citation for 21 CFR part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

58. Section 866.2050 is amended by revising paragraph (b) to read as follows:

§ 866.2050 Staphylococcal typing bacteriophage.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

59. Section 866.2120 is amended by revising paragraph (b) to read as follows:

§ 866.2120 Anaerobic chamber.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9. The device is also exempt from the good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

60. Section 866.2160 is amended by revising paragraph (b) to read as follows:

§ 866.2160 Coagulase plasma.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

61. Section 866.2170 is amended by revising paragraph (b) to read as follows:

§ 866.2170 Automated colony counter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

62. Section 866.2180 is amended by revising paragraph (b) to read as follows:

§ 866.2180 Manual colony counter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9. The device is also exempt from the good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

63. Section 866.2300 is amended by revising paragraph (b) to read as follows:

§ 866.2300 Multipurpose culture medium.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

64. Section 866.2320 is amended by revising paragraph (b) to read as follows:

§ 866.2320 Differential culture medium.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

65. Section 866.2330 is amended by revising paragraph (b) to read as follows:

§ 866.2330 Enriched culture medium.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

66. Section 866.2350 is amended by revising paragraph (b) to read as follows:

§ 866.2350 Microbiological assay culture medium.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

67. Section 866.2360 is amended by revising paragraph (b) to read as follows:

§ 866.2360 Selective culture medium.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

68. Section 866.2440 is amended by revising paragraph (b) to read as follows:

§ 866.2440 Automated medium dispensing and stacking device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9. The device is also exempt from the good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

69. Section 866.2450 is amended by revising paragraph (b) to read as follows:

§ 866.2450 Supplement for culture media.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

70. Section 866.2480 is amended by revising paragraph (b) to read as follows:

§ 866.2480 Quality control kit for culture media.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

71. Section 866.2500 is amended by revising paragraph (b) to read as follows:

§ 866.2500 Microtiter diluting and dispensing device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

72. Section 866.2540 is amended by revising paragraph (b) to read as follows:

§ 866.2540 Microbiological incubator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9. The device is also exempt from the good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

73. Section 866.2580 is amended by revising paragraph (b) to read as follows:

§ 866.2580 Gas-generating device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

74. Section 866.2600 is amended by revising paragraph (b) to read as follows:

§ 866.2600 Wood's fluorescent lamp.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9. The device is also exempt from the good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

75. Section 866.3010 is amended by revising paragraph (b) to read as follows:

§ 866.3010 Acinetobacter calcoaceticus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

76. Section 866.3020 is amended by revising paragraph (b) to read as follows:

§ 866.3020 Adenovirus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

77. Section 866.3035 is amended by revising paragraph (b) to read as follows:

§ 866.3035 Arizona spp. serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

78. Section 866.3065 is amended by revising paragraph (b) to read as follows:

§ 866.3065 Bordetella spp. serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

79. Section 866.3125 is amended by revising paragraph (b) to read as follows:

§ 866.3125 Citrobacter spp. serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

80. Section 866.3205 is amended by revising paragraph (b) to read as follows:

§ 866.3205 Echovirus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

81. Section 866.3250 is amended by revising paragraph (b) to read as follows:

§ 866.3250 Erysipelothrix rhusiopathiae serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

82. Section 866.3255 is amended by revising paragraph (b) to read as follows:

§ 866.3255 Escherichia coli serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

83. Section 866.3270 is amended by revising paragraph (b) to read as follows:

§ 866.3270 Flavobacterium spp. serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

84. Section 866.3330 is amended by revising paragraph (b) to read as follows:

§ 866.3330 Influenza virus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

85. Section 866.3340 is amended by revising paragraph (b) to read as follows:

§ 866.3340 Klebsiella spp. serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

86. Section 866.3400 is amended by revising paragraph (b) to read as follows:

§ 866.3400 Parainfluenza virus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

87. Section 866.3410 is amended by revising paragraph (b) to read as follows:

§ 866.3410 Proteus spp. (Weil-Felix) serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

88. Section 866.3470 is amended by revising paragraph (b) to read as follows:

§ 866.3470 Reovirus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

89. Section 866.3490 is amended by revising paragraph (b) to read as follows:

§ 866.3490 Rhinovirus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

90. Section 866.3520 is amended by revising paragraph (b) to read as follows:

§ 866.3520 Rubeola (measles) virus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

91. Section 866.3630 is amended by revising paragraph (b) to read as follows:

§ 866.3630 Serratia spp. serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

92. Section 866.3700 is amended by revising paragraph (b) to read as follows:

§ 866.3700 Staphylococcus aureus serological reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

93. Section 866.3720 is amended by revising paragraph (b) to read as follows:

§ 866.3720 Streptococcus spp. exoenzyme reagents.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

94. Section 866.4100 is amended by revising paragraph (b) to read as follows:

§ 866.4100 Complement reagent.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

95. Section 866.4500 is amended by revising paragraph (b) to read as follows:

§ 866.4500 Immunoelectrophoresis equipment.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

96. Section 866.4520 is amended by revising paragraph (b) to read as follows:

§ 866.4520 Immunofluorometer equipment.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

97. Section 866.4540 is amended by revising paragraph (b) to read as follows:

§ 866.4540 Immunonephelometer equipment.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

98. Section 866.4600 is amended by revising paragraph (b) to read as follows:

§ 866.4600 Ouchterlony agar plate.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

99. Section 866.4800 is amended by revising paragraph (b) to read as follows:

§ 866.4800 Radial immunodiffusion plate.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

100. Section 866.4830 is amended by revising paragraph (b) to read as follows:

§ 866.4830 Rocket immunoelectrophoresis equipment.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

101. Section 866.4900 is amended by revising paragraph (b) to read as follows:

§ 866.4900 Support gel.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

102. Section 866.5170 is amended by revising paragraph (b) to read as follows:

§ 866.5170 Breast milk immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

103. Section 866.5220 is amended by revising paragraph (b) to read as follows:

§ 866.5220 Cohn fraction II immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

104. Section 866.5230 is amended by revising paragraph (b) to read as follows:

§ 866.5230 Colostrum immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

105. Section 866.5360 is amended by revising paragraph (b) to read as follows:

§ 866.5360 Cohn fraction IV immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

106. Section 866.5370 is amended by revising paragraph (b) to read as follows:

§ 866.5370 Cohn fraction V immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

107. Section 866.5520 is amended by revising paragraph (b) to read as follows:

§ 866.5520 Immunoglobulin G (Fab fragment specific) immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

108. Section 866.5530 is amended by revising paragraph (b) to read as follows:

§ 866.5530 Immunoglobulin G (Fc fragment specific) immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

109. Section 866.5540 is amended by revising paragraph (b) to read as follows:

§ 866.5540 Immunoglobulin G (Fd fragment specific) immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

110. Section 866.5700 is amended by revising paragraph (b) to read as follows:

§ 866.5700 Whole human plasma or serum immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

111. Section 866.5800 is amended by revising paragraph (b) to read as follows:

§ 866.5800 Seminal fluid (sperm) immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

112. Section 866.5860 is amended by revising paragraph (b) to read as follows:

§ 866.5860 Total spinal fluid immunological test system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 866.9.

PART 868—ANESTHESIOLOGY DEVICES

113. The authority citation for 21 CFR part 868 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

114. Section 868.1030 is amended by revising paragraph (b) to read as follows:

§ 868.1030 Manual algesimeter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

115. Section 868.1100 is amended by revising paragraph (b) to read as follows:

§ 868.1100 Arterial blood sampling kit.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

116. Section 868.1575 is amended by revising paragraph (b) to read as follows:

§ 868.1575 Gas collection vessel.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

117. Section 868.1870 is amended by revising paragraph (b) to read as follows:

§ 868.1870 Gas volume calibrator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

118. Section 868.1930 is amended by revising paragraph (b) to read as follows:

§ 868.1930 Stethoscope head.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

119. Section 868.1965 is amended by revising paragraph (b) to read as follows:

§ 868.1965 Switching valve (ploss).

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

120. Section 868.1975 is amended by revising paragraph (b) to read as follows:

§ 868.1975 Water vapor analyzer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

121. Section 868.2300 is amended by revising paragraph (b) to read as follows:

§ 868.2300 Bourdon gauge flowmeter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

122. Section 868.2320 is amended by revising paragraph (b) to read as follows:

§ 868.2320 Uncompensated thorpe tube flowmeter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

123. Section 868.2340 is amended by revising paragraph (b) to read as follows:

§ 868.2340 Compensated thorpe tube flowmeter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

124. Section 868.2350 is amended by revising paragraph (b) to read as follows:

§ 868.2350 Gas calibration flowmeter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

125. Section 868.2610 is amended by revising paragraph (b) to read as follows:

§ 868.2610 Gas pressure gauge.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

126. Section 868.2620 is amended by revising paragraph (b) to read as follows:

§ 868.2620 Gas pressure calibrator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

127. Section 868.2700 is amended by revising paragraph (b) to read as follows:

§ 868.2700 Pressure regulator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

128. Section 868.2875 is amended by revising paragraph (b) to read as follows:

§ 868.2875 Differential pressure transducer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

129. Section 868.2885 is amended by revising paragraph (b) to read as follows:

§ 868.2885 Gas flow transducer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

130. Section 868. 5100 is amended by revising paragraph (b) to read as follows:

§ 868.5100 Nasopharyngeal airway.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

131. Section 868.5110 is amended by revising paragraph (b) to read as follows:

§ 868.5110 Oropharyngeal airway.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

132. Section 868.5220 is amended by revising paragraph (b) to read as follows:

§ 868.5220 Blow bottle.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

133. Section 868.5240 is amended by revising paragraph (b) to read as follows:

§ 868.5240 Anesthesia breathing circuit.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

134. Section 868.5280 is amended by revising paragraph (b) to read as follows:

§ 868.5280 Breathing tube support.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

135. Section 868.5300 is amended by revising paragraph (b) to read as follows:

§ 868.5300 Carbon dioxide absorbent.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

136. Section 868.5310 is amended by revising paragraph (b) to read as follows:

§ 868.5310 Carbon dioxide absorber.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

137. Section 868.5320 is amended by revising paragraph (b) to read as follows:

§ 868.5320 Reservoir bag.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

138. Section 868.5340 is amended by revising paragraph (b) to read as follows:

§ 868.5340 Nasal oxygen cannula.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

139. Section 868.5350 is amended by revising paragraph (b) to read as follows:

§ 868.5350 Nasal oxygen catheter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

140. Section 868.5365 is amended by revising paragraph (b) to read as follows:

§ 868.5365 Posture chair for cardiac or pulmonary treatment.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

141. Section 868.5375 is amended by revising paragraph (b) to read as follows:

§ 868.5375 Heat and moisture condensor (artificial nose).

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

142. Section 868.5420 is amended by revising paragraph (b) to read as follows:

§ 868.5420 Ether hook.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

143. Section 868.5460 is amended by revising paragraph (b) to read as follows:

§ 868.5460 Therapeutic humidifier for home use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

144. Section 868.5530 is amended by revising paragraph (b) to read as follows:

§ 868.5530 Flexible laryngoscope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

145. Section 868.5540 is amended by revising paragraph (b) to read as follows:

§ 868.5540 Rigid laryngoscope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9

146. Section 868.5550 is amended by revising paragraph (b) to read as follows:

§ 868.5550 Anesthetic gas mask.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

147. Section 868.5560 is amended by revising paragraph (b) to read as follows:

§ 868.5560 Gas mask head strap.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

148. Section 868.5570 is amended by revising paragraph (b) to read as follows:

§ 868.5570 Nonrebreathing mask.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

149. Section 868.5580 is amended by revising paragraph (b) to read as follows:

§ 868.5580 Oxygen mask.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

150. Section 868.5590 is amended by revising paragraph (b) to read as follows:

§ 868.5590 Scavenging mask.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

151. Section 868.5600 is amended by revising paragraph (b) to read as follows:

§ 868.5600 Venturi mask.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

152. Section 868.5760 is amended by revising paragraph (b) to read as follows:

§ 868.5760 Cuff spreader.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

153. Section 868.5770 is amended by revising paragraph (b) to read as follows:

§ 868.5770 Tracheal tube fixation device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

154. Section 868.5780 is amended by revising paragraph (b) to read as follows:

§ 868.5780 Tube introduction forceps.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

155. Section 868.5790 is amended by revising paragraph (b) to read as follows:

§ 868.5790 Tracheal tube stylet.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

156. Section 868.5795 is amended by revising paragraph (b) to read as follows:

§ 868.5795 Tracheal tube cleaning brush.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

157. Section 868.5810 is amended by revising paragraph (b) to read as follows:

§ 868.5810 Airway connector.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

158. Section 868.5820 is amended by revising paragraph (b) to read as follows:

§ 868.5820 Dental protector.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

159. Section 868.5860 is amended by revising paragraph (b) to read as follows:

§ 868.5860 Pressure tubing and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

160. Section 868.5975 is amended by revising paragraph (b) to read as follows:

§ 868.5975 Ventilator tubing.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

161. Section 868.5995 is amended by revising paragraph (b) to read as follows:

§ 868.5995 Tee drain (water trap).

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

162. Section 868.6100 is amended by revising paragraph (b) to read as follows:

§ 868.6100 Anesthetic cabinet, table, or tray.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

163. Section 868.6175 is amended by revising paragraph (b) to read as follows:

§ 868.6175 Cardiopulmonary emergency cart.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

164. Section 868.6225 is amended by revising paragraph (b) to read as follows:

§ 868.6225 Nose clip.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

165. Section 868.6400 is amended by revising paragraph (b) to read as follows:

§ 868.6400 Calibration gas.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

166. Section 868.6700 is amended by revising paragraph (b) to read as follows:

§ 868.6700 Anesthesia stool.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

167. Section 868.6820 is amended by revising paragraph (b) to read as follows:

§ 868.6820 Patient position support.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

168. Section 868.6885 is amended by revising paragraph (b) to read as follows:

§ 868.6885 Medical gas yoke assembly.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 868.9.

PART 870—CARDIOVASCULAR DEVICES

169. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

170. Section 870.1875 is amended by revising paragraph (a)(2) to read as follows:

§ 870.1875 Stethoscope.

(a) * * *

(2) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

* * * * *

171. Section 870.2390 is amended by revising paragraph (b) to read as follows:

§ 870.2390 Phonocardiograph.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

172. Section 870.2600 is amended by revising paragraph (b) to read as follows:

§ 870.2600 Signal isolation system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

173. Section 870.2620 is amended by revising paragraph (b) to read as follows:

§ 870.2620 Line isolation monitor.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

174. Section 870.2640 is amended by revising paragraph (b) to read as follows:

§ 870.2640 Portable leakage current alarm.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

175. Section 870.2810 is amended by revising paragraph (b) to read as follows.

§ 870.2810 Paper chart recorder.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

176. Section 870.3650 is amended by revising paragraph (b) to read as follows:

§ 870.3650 Pacemaker polymeric mesh bag.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

177. Section 870.3670 is amended by revising paragraph (b) to read as follows:

§ 870.3670 Pacemaker charger.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

178. Section 870.3690 is amended by revising paragraph (b) to read as follows:

§ 870.3690 Pacemaker test magnet.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

179. Section 870.3730 is amended by revising paragraph (b) to read as follows:

§ 870.3730 Pacemaker service tools.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

180. Section 870.3945 is amended by revising paragraph (b) to read as follows:

§ 870.3945 Prosthetic heart valve sizer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

181. Section 870.4500 is amended by revising paragraph (b) to read as follows:

§ 870.4500 Cardiovascular surgical instruments.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 870.9.

PART 872—DENTAL DEVICES

182. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

183. Section 872.1500 is amended by revising paragraph (b) to read as follows:

§ 872.1500 Gingival fluid measurer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

184. Section 872.1730 is amended by revising paragraph (b) to read as follows:

§ 872.1730 Electrode gel for pulp testers.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

185. Section 872.1820 is amended by revising paragraph (b) to read as follows:

§ 872.1820 Dental x-ray exposure alignment device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

186. Section 872.1840 is amended by revising paragraph (b) to read as follows:

§ 872.1840 Dental x-ray position indicating device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

187. Section 872.1850 is amended by revising paragraph (b) to read as follows:

§ 872.1850 Lead-lined position indicator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

188. Section 872.1905 is amended by revising paragraph (b) to read as follows:

§ 872.1905 Dental x-ray film holder.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exceptions of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

189. Section 872.3080 is amended by revising paragraph (b) to read as follows:

§ 872.3080 Mercury and alloy dispenser.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

190. Section 872.3100 is amended by revising paragraph (b) to read as follows:

§ 872.3100 Dental amalgamator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

191. Section 872. 3110 is amended by revising paragraph (b) to read as follows:

§ 872.3110 Dental amalgam capsule.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

192. Section 872.3130 is amended by revising paragraph (b) to read as follows:

§ 872.3130 Preformed anchor.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

193. Section 872.3140 is amended by revising paragraph (b) to read as follows:

§ 872.3140 Resin applicator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, the device is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exceptions of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

194. Section 872.3150 is amended by revising paragraph (b) to read as follows:

§ 872.3150 Articulator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, the device is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exceptions of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

195. Section 872.3165 is amended by revising paragraph (b) to read as follows:

§ 872.3165 Precision attachment.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

196. Section 872.3220 is amended by revising paragraph (b) to read as follows:

§ 872.3220 Facebow.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the

premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, the device is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exceptions of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

197. Section 872.3240 is amended by revising paragraph (b) to read as follows:

§ 872.3240 Dental bur.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

198. Section 872.3285 is amended by revising paragraph (b) to read as follows:

§ 872.3285 Preformed clasp.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

199. Section 872.3330 is amended by revising paragraph (b) to read as follows:

§ 872.3330 Preformed crown.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

200. Section 872.3350 is amended by revising paragraph (b) to read as follows:

§ 872.3350 Gold or stainless steel cusp.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

201. Section 872.3360 is amended by revising paragraph (b) to read as follows:

§ 872.3360 Preformed cusp.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

202. Section 872.3410 is amended by revising paragraph (b) to read as follows:

§ 872.3410 Ethylene oxide homopolymer and/or carboxymethylcellulose sodium denture adhesive.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

203. Section 872.3490 is amended by revising paragraph (b) to read as follows:

§ 872.3490 Carboxymethylcellulose sodium and/or polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

204. Section 872.3520 is amended by revising paragraph (b) to read as follows:

§ 872.3520 OTC denture cleanser.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

205. Section 872.3530 is amended by revising paragraph (b) to read as follows:

§ 872.3530 Mechanical denture cleaner.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

206. Section 872.3580 is amended by revising paragraph (b) to read as follows:

§ 872.3580 Preformed gold denture tooth.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

207. Section 872.3670 is amended by revising paragraph (b) to read as follows:

§ 872.3670 Resin impression tray material.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

208. Section 872.3730 is amended by revising paragraph (b) to read as follows:

§ 872.3730 Pantograph.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

209. Section 872.3740 is amended by revising paragraph (b) to read as follows:

§ 872.3740 Retentive and splinting pin.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9

210. Section 872.3810 is amended by revising paragraph (b) to read as follows:

§ 872.3810 Root canal post.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

211. Section 872.3830 is amended by revising paragraph (b) to read as follows:

§ 872.3830 Endodontic paper point.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

212. Section 872.3840 is amended by revising paragraph (b) to read as follows:

§ 872.3840 Endodontic silver point.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

213. Section 872.3850 is amended by revising paragraph (b) to read as follows:

§ 872.3850 Gutta percha.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

214. Section 872.3900 is amended by revising paragraph (b) to read as follows:

§ 872.3900 Posterior artificial tooth with a metal insert.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in

subpart E of part 807 of this chapter subject to the limitations in § 872.9.

215. Section 872.3910 is amended by revising paragraph (b) to read as follows:

§ 872.3910 Backing and facing for an artificial tooth.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

216. Section 872.4130 is amended by revising paragraph (b) to read as follows:

§ 872.4130 Intraoral dental drill.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

217. Section 872.4565 is amended by revising paragraph (b) to read as follows:

§ 872.4565 Dental hand instrument.

* * * * *

(b) *Classification.* Class I (general controls). If the device is made of the same materials that were used in the device before May 28, 1976, it is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

218. Section 872.4620 is amended by revising paragraph (b) to read as follows:

§ 872.4620 Fiber optic dental light.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

219. Section 872.4630 is amended by revising paragraph (b) to read as follows:

§ 872.4630 Dental operating light.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

220. Section 872.4730 is amended by revising paragraph (b) to read as follows:

§ 872.4730 Dental injecting needle.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

221. Section 872.5410 is amended by revising paragraph (b) to read as follows:

§ 872.5410 Orthodontic appliance and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

222. Section 872.5525 is amended by revising paragraph (b) to read as follows:

§ 872.5525 Preformed tooth positioner.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

223. Section 872.6010 is amended by revising paragraph (b) to read as follows:

§ 872.6010 Abrasive device and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

224. Section 872.6030 is amended by revising paragraph (b) to read as follows:

§ 872.6030 Oral cavity abrasive polishing agent.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

225. Section 872.6050 is amended by revising paragraph (b) to read as follows:

§ 872.6050 Saliva absorber.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

226. Section 872.6100 is amended by revising paragraph (b) to read as follows:

§ 872.6100 Anesthetic warmer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

227. Section 872.6140 is amended by revising paragraph (b) to read as follows:

§ 872.6140 Articulation paper.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

228. Section 872.6200 is amended by revising paragraph (b) to read as follows:

§ 872.6200 Base plate shellac.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

229. Section 872.6290 is amended by revising paragraph (b) to read as follows:

§ 872.6290 Prophylaxis cup.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

230. Section 872.6475 is amended by revising paragraph (b) to read as follows:

§ 872.6475 Heat source for bleaching teeth.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in

subpart E of part 807 of this chapter subject to the limitations in § 872.9.

231. Section 872.6510 is amended by revising paragraph (b) to read as follows:

§ 872.6510 Oral irrigation unit.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

232. Section 872.6570 is amended by revising paragraph (b) to read as follows:

§ 872.6570 Impression tube.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

233. Section 872.6650 is amended by revising paragraph (b) to read as follows:

§ 872.6650 Massaging pick or tip for oral hygiene.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

234. Section 872.6670 is amended by revising paragraph (b) to read as follows:

§ 872.6670 Silicate protector.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

235. Section 872.6710 is amended by revising paragraph (b) to read as follows:

§ 872.6710 Boiling water sterilizer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

236. Section 872.6855 is amended by revising paragraph (b) to read as follows:

§ 872.6855 Manual toothbrush.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

237. Section 872.6865 is amended by revising paragraph (b) to read as follows:

§ 872.6865 Powered toothbrush.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

238. Section 872.6870 is amended by revising paragraph (b) to read as follows:

§ 872.6870 Disposable flouride tray.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

239. Section 872.6880 is amended by revising paragraph (b) to read as follows:

§ 872.6880 Preformed impression tray.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

240. Section 872.6890 is amended by revising paragraph (b) to read as follows:

§ 872.6890 Intraoral dental wax.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

PART 874—EAR, NOSE, AND THROAT DEVICES

241. The authority citation for 21 CFR part 874 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

242. Section 874.1060 is amended by revising paragraph (b) to read as follows:

§ 874.1060 Acoustic chamber for audiometric testing.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

243. Section 874.1080 is amended by revising paragraph (b) to read as follows:

§ 874.1080 Audiometer calibration set.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

244. Section 874.3375 is amended by revising paragraph (b) to read as follows:

§ 874.3375 Battery-powered artificial larynx.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

245. Section 874.4140 is amended by revising paragraph (b) to read as follows:

§ 874.4140 Ear, nose, and throat bur.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

246. Section 874.4175 is amended by revising paragraph (b) to read as follows:

§ 874.4175 Nasopharyngeal catheter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

247. Section 874.4350 is amended by revising paragraph (b) to read as follows:

§ 874.4350 Ear, nose, and throat fiberoptic light source and carrier.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

248. Section 874.4750 is amended by revising paragraph (b) to read as follows:

§ 874.4750 Laryngostroboscope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

249. Section 874.4770 is amended by revising paragraph (b) to read as follows:

§ 874.4770 Otoscope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9 only when used in the external ear canal.

250. Section 874.5220 is amended by revising paragraph (b) to read as follows:

§ 874.5220 Ear, nose, and throat drug administration device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

251. Section 874.5800 is amended by revising paragraph (b) to read as follows:

§ 874.5800 External nasal splint.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

PART 876—GASTROENTEROLOGY–UROLOGY DEVICES

252. The authority citation for 21 CFR part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

253. Section 876.1075 is amended by revising paragraph (b)(2) to read as follows:

§ 876.1075 Gastroenterology-urology biopsy instrument.

* * * * *

(b) * * *

(2) Class I for the biopsy forceps cover and the non-electric biopsy forceps. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

254. Section 876.1500 is amended by revising paragraph (b)(2) to read as follows:

§ 876.1500 Endoscope and accessories.

* * * * *

(b) * * *

(2) Class I for the photographic accessories for endoscope, miscellaneous bulb adapter for endoscope, binocular attachment for endoscope, eyepiece attachment for prescription lens, teaching attachment, inflation bulb, measuring device for panendoscope, photographic equipment for physiologic function monitor, special lens instrument for endoscope, smoke removal tube, rechargeable battery box, pocket battery box, bite block for endoscope, and cleaning brush for endoscope. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807of this chapter, subject to the limitations in § 876.9.

255. Section 876.4530 is amended by revising paragraph (b) to read as follows:

§ 876.4530 Gastroenterology-urology fiberoptic retractor.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

256. Section 876.4560 is amended by revising paragraph (b) to read as follows:

§ 876.4560 Ribdam.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

257. Section 876.4590 is amended by revising paragraph (b) to read as follows:

§ 876.4590 Interlocking urethral sound.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

258. Section 876.4730 is amended by revising paragraph (b) to read as follows:

§ 876.4730 Manual gastroenterology-urology surgical instrument and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

259. Section 876.4890 is amended by revising paragraph (b)(2) to read as follows:

§ 876.4890 Urological table and accessories.

* * * * *

(b) * * *

(2) Class I for the manually powered table and accessories, and for stirrups for electrically powered table. The device subject to this paragraph (b)(2) is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

260. Section 876.5030 is amended by revising paragraph (b) to read as follows:

§ 876.5030 Continent ileostomy catheter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

261. Section 876.5090 is amended by revising paragraph (b)(2) to read as follows:

§ 876.5090 Supra‘ urological catheter and accessories.

* * * * *

(b) * * *

(2) Class I for the catheter punch instrument, nondisposable cannula and trocar, and gastro-urological trocar. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

262. Section 876.5130 is amended by revising paragraph (b)(2) to read as follows:

§ 876.5130 Urological catheter and accessories.

* * * * *

(b) * * *

(2) Class I for the ureteral stylet (guidewire), stylet for gastrourological

catheter, ureteral catheter adapter, ureteral catheter connector, and ureteral catheter holder. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

263. Section 876.5250 is amended by revising paragraph (b)(2) to read as follows:

§ 876.5250 Urine collector and accessories.

* * * * *

(b) * * *

(2) Class I (general controls). For a urine collector and accessories not intended to be connected to an indwelling catheter, subject to the limitations in § 876.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

264. Section 876.5450 is amended by revising paragraph (b) to read as follows:

§ 876.5450 Rectal dilator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

265. Section 876.5520 is amended by revising paragraph (b)(2) to read as follows:

§ 876.5520 Urethral dilator.

* * * * *

(b) * * *

(2) Class I for the urethrometer, urological bougie, filiform and filiform follower, and metal or plastic urethral sound. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

266. Section 876.5540 is amended by revising paragraph (b)(4) to read as follows:

§ 876.5540 Blood access device and accessories.

* * * * *

(b) * * *

(4) Class I for the cannula clamp, disconnect forceps, crimp plier, tube plier, crimp ring, and joint ring, accessories for both the implanted and nonimplanted blood access device. The devices subject to this paragraph (b)(4) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

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267. Section 876.5820 is amended by revising paragraph (b)(2) to read as follows:

§ 876.5820 Hemodialysis system and accessories.

* * * * *

(b) * * *

(2) Class I for other accessories of the hemodialysis system remote from the extracorporeal blood system and the dialysate delivery system, such as the unpowered dialysis chair, hemodialysis start/stop tray, dialyzer holder set, and dialysis tie gun and ties. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

268. Section 876.5900 is amended by revising paragraph (b) to read as follows:

§ 876.5900 Ostomy pouch and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.

269. Section 876.5920 is amended by revising paragraph (b) to read as follows:

§ 876.5920 Protective garment for incontinence.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

270. Section 876.5970 is amended by revising paragraph (b) to read as follows:

§ 876.5970 Hernia support.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

271. The authority citation for 21 CFR continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

272. Section 878.1800 is amended by revising paragraph (b) to read as follows:

§ 878.1800 Speculum and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

273. Section 878.3750 is amended by revising paragraph (b) to read as follows:

§ 878.3750 External prosthesis adhesive.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

274. Section 878.3800 is amended by revising paragraph (b) to read as follows:

§ 878.3800 External aesthetic restoration prosthesis.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9. If the device is intended for use without an external prosthesis adhesive to fasten it to the body, the device is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

275. Section 878.3900 is amended by revising paragraph (b) to read as follows:

§ 878.3900 Inflatable extremity splint.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

276. Section 878.4160 is amended by revising paragraph (b) to read as follows:

§ 878.4160 Surgical camera and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

277. Section 878.4380 is amended by revising paragraph (b) to read as follows:

§ 878.4380 Drape adhesive.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

278. Section 878.4440 is amended by revising paragraph (b) to read as follows:

§ 878.4440 Eye pad.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

279. Section 878.4450 is amended by revising paragraph (b) to read as follows:

§ 878.4450 Nonabsorbable gauze for internal use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

280. Section 878.4460 is amended by revising paragraph (b) to read as follows:

§ 878.4460 Surgeon's glove.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

281. Section 878.4470 is amended by revising paragraph (b) to read as follows:

§ 878.4470 Surgeon's gloving cream.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

282. Section 878.4635 is amended by revising paragraph (b) to read as follows:

§ 878.4635 Ultraviolet lamp for tanning.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

283. Section 878.4660 is amended by revising paragraph (b) to read as follows:

§ 878.4660 Skin marker.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

284. Section 878.4700 is amended by revising paragraph (b) to read as follows:

§ 878.4700 Surgical microscope and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

285. Section 878.4730 is amended by revising paragraph (b) to read as follows:

§ 878.4730 Surgical skin degreaser or adhesive tape solvent.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

286. Section 878.4800 is amended by revising paragraph (b) to read as follows:

§ 878.4800 Manual surgical instrument for general use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

287. Section 878.4810 is amended by revising paragraph (b)(2) to read as follows:

§ 878.4810 Laser surgical instrument for use in general and plastic surgery and in dermatology.

* * * * *

(b) * * *

(2) Class I for special laser gas mixtures used as a lasing medium for this class of lasers. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

288. Section 878.4930 is amended by revising paragraph (b) to read as follows:

§ 878.4930 Suture retention device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

289. Section 878.4950 is amended by revising paragraph (b) to read as follows:

§ 878.4950 Manual operating table and accessories and manual operating chair and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

290. Section 878.5350 is amended by revising paragraph (b) to read as follows:

§ 878.5350 Needle-type epilator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

291. Section 878.5900 is amended by revising paragraph (b) to read as follows:

§ 878.5900 Nonpneumatic tourniquet.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

292. Section 878.5910 is amended by revising paragraph (b) to read as follows:

§ 878.5910 Pneumatic tourniquet.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 878.9.

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

293. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

294. Section 880.2400 is amended by revising paragraph (b) to read as follows:

§ 880.2400 Bed-patient monitor.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 880.9.

295. Section 880.2700 is amended by revising paragraph (b) to read as follows:

§ 880.2700 Stand-on patient scale.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

296. Section 880.2720 is amended by revising paragraph (b) to read as follows:

§ 880.2720 Patient scale.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in

subpart E of part 807 of this chapter subject to the limitations in § 880.9.

297. Section 880.2740 is amended by revising paragraph (b) to read as follows:

§ 880.2740 Surgical sponge scale.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

298. Section 880.2900 is amended by revising paragraph (b) to read as follows:

§ 880.2900 Clinical color change thermometer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

299. Section 880.5075 is amended by revising paragraph (b) to read as follows:

§ 880.5075 Elastic bandage.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

300. Section 880.5110 is amended by revising paragraph (b) to read as follows:

§ 880.5110 Hydraulic adjustable hospital bed.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

301. Section 880.5120 is amended by revising paragraph (b) to read as follows:

§ 880.5120 Manual adjustable hospital bed.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

302. Section 880.5150 is amended by revising paragraph (b) to read as follows:

§ 880.5150 Nonpowered flotation therapy mattress.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

303. Section 880.5160 is amended by revising paragraph (b) to read as follows:

§ 880.5160 Therapeutic medical binder.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

304. Section 880.5180 is amended by revising paragraph (b) to read as follows:

§ 880.5180 Burn sheet.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

305. Section 880.5210 is amended by revising paragraph (b) to read as follows:

§ 880.5210 Intravascular catheter securement device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

306. Section 880.5240 is amended by revising paragraph (b) to read as follows:

§ 880.5240 Medical adhesive tape and adhesive bandage.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

307. Section 880.5300 is amended by revising paragraph (b) to read as follows:

§ 880.5300 Medical absorbent fiber.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

308. Section 880.5510 is amended by revising paragraph (b) to read as follows:

§ 880.5510 Non-AC-powered patient lift.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

309. Section 880.5560 is amended by revising paragraph (b) to read as follows:

§ 880.5560 Temperature regulated water mattress.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

310. Section 880.5630 is amended by revising paragraph (b) to read as follows:

§ 880.5630 Nipple shield.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

311. Section 880.5640 is amended by revising paragraph (b) to read as follows:

§ 880.5640 Lamb feeding nipple.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

312. Section 880.5680 is amended by revising paragraph (b) to read as follows:

§ 880.5680 Pediatric position holder.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

313. Section 880.5740 is amended by revising paragraph (b) to read as follows:

§ 880.5740 Suction snakebite kit.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

314. Section 880.5780 is amended by revising paragraph (b)(2) to read as follows:

§ 880.5780 Medical support stocking.

* * * * *

(b) * * *

(2) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

315. Section 880.5820 is amended by revising paragraph (b) to read as follows:

§ 880.5820 Therapeutic scrotal support.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

316. Section 880.5950 is amended by revising paragraph (b) to read as follows:

§ 880.5950 Umbilical occlusion device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

317. Section 880.6025 is amended by revising paragraph (b) to read as follows:

§ 880.6025 Absorbent tipped applicator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

318. Section 880.6050 is amended by revising paragraph (b) to read as follows:

§ 880.6050 Ice bag.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

319. Section 880.6060 is amended by revising paragraph (b) to read as follows:

§ 880.6060 Medical disposable bedding.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

320. Section 880.6070 is amended by revising paragraph (b) to read as follows:

§ 880.6070 Bed board.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

321. Section 880.6080 is amended by revising paragraph (b) to read as follows:

§ 880.6080 Cardiopulmonary resuscitation board.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

322. Section 880.6085 is amended by revising paragraph (b) to read as follows:

§ 880.6085 Hot/cold water bottle.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

323. Section 880.6140 is amended by revising paragraph (b) to read as follows:

§ 880.6140 Medical chair and table.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

324. Section 880.6150 is amended by revising paragraph (b) to read as follows:

§ 880.6150 Ultrasonic cleaner for medical instruments.

* * * * *

(b) *Classification.* Class I. The device, including any solutions intended for use with the device for cleaning and sanitizing the instruments, is exempt from the premarket notification procedures in subpart E of part 807 of

this chapter, subject to the limitations in § 880.9.

325. Section 880.6185 is amended by revising paragraph (b) to read as follows:

§ 880.6185 Cast cover.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

326. Section 880.6190 is amended by revising paragraph (b) to read as follows:

§ 880.6190 Mattress cover for medical purposes.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

327. Section 880.6200 is amended by revising paragraph (b) to read as follows:

§ 880.6200 Ring cutter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

328. Section 880.6230 is amended by revising paragraph (b) to read as follows:

§ 880.6230 Tongue depressor.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

329. Section 880.6250 is amended by revising paragraph (b) to read as follows:

§ 880.6250 Patient examination glove.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

330. Section 880.6265 is amended by revising paragraph (b) to read as follows:

§ 880.6265 Examination gown.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

331. Section 880.6280 is amended by revising paragraph (b) to read as follows:

§ 880.6280 Medical insole.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

332. Section 880.6320 is amended by revising paragraph (b) to read as follows:

§ 880.6320 AC-powered medical examination light.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

333. Section 880.6350 is amended by revising paragraph (b) to read as follows:

§ 880.6350 Battery-powered medical examination light.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

334. Section 880.6375 is amended by revising paragraph (b) to read as follows:

§ 880.6375 Patient lubricant.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

335. Section 880.6430 is amended by revising paragraph (b) to read as follows:

§ 880.6430 Liquid medication dispenser.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

336. Section 880.6450 is amended by revising paragraph (b) to read as follows:

§ 880.6450 Skin pressure protectors.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

337. Section 880.6730 is revised to read as follows:

§ 880.6730 Body waste receptacle.

(a) *Identification.* A body waste receptacle is a device intended for medical purposes that is not attached to the body and that is used to collect the body wastes of a bed patient.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

338. Section 880.6760 is amended by revising paragraph (b) to read as follows:

§ 880.6760 Protective restraint.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

339. Section 880.6785 is amended by revising paragraph (b) to read as follows:

§ 880.6785 Manual patient transfer device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

340. Section 880.6800 is amended by revising paragraph (b) to read as follows:

§ 880.6800 Washers for body waste receptacles.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device also is exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

341. Section 880.6820 is amended by revising paragraph (b) to read as follows:

§ 880.6820 Medical disposable scissors.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

342. Section 880.6900 is amended by revising paragraph (b) to read as follows:

§ 880.6900 Hand-carried stretcher.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

343. Section 880.6960 is amended by revising paragraph (b) to read as follows:

§ 880.6960 Irrigating syringe.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

344. Section 880.6970 is amended by revising paragraph (b) to read as follows:

§ 880.6970 Liquid crystal vein locator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9.

345. Section 880.6980 is amended by revising paragraph (b) to read as follows:

§ 880.6980 Vein stabilizer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 880.9. If the device is not labeled or otherwise represented as sterile, it is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

PART 882—NEUROLOGICAL DIAGNOSTIC DEVICES

346. The authority citation for 21 CFR part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

347. Section 882.1030 is amended by revising paragraph (b) to read as follows:

§ 882.1030 Ataxiagraph.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

348. Section 882.1410 is amended by revising paragraph (b) to read as follows:

§ 882.1410 Electroencephalograph electrode/lead tester.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

349. Section 882.1420 is amended by revising paragraph (b) to read as follows:

§ 882.1420 Electroencephalogram (EEG) signal spectrum analyzer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

350. Section 882.1430 is amended by revising paragraph (b) to read as follows:

§ 882.1430 Electroencephalograph test signal generator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

351. Section 882.1525 is amended by revising paragraph (b) to read as follows:

§ 882.1525 Tuning fork.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

352. Section 882.1700 is amended by revising paragraph (b) to read as follows:

§ 882.1700 Percussor.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

353. Section 882.1925 is amended by revising paragraph (b) to read as follows:

§ 882.1925 Ultrasonic scanner calibration test block.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in

subpart E of part 807 of this chapter subject to the limitations in § 882.9.

354. Section 882.4030 is amended by revising paragraph (b) to read as follows:

§ 882.4030 Skull plate anvil.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

355. Section 882.4125 is amended by revising paragraph (b) to read as follows:

§ 882.4125 Neurosurgical chair.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

356. Section 882.4200 is amended by revising paragraph (b) to read as follows:

§ 882.4200 Clip removal instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

357. Section 882.4215 is amended by revising paragraph (b) to read as follows:

§ 882.4215 Clip rack.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

358. Section 882.4325 is amended by revising paragraph (b) to read as follows:

§ 882.4325 Cranial drill handpiece (brace).

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

359. Section 882.4440 is amended by revising paragraph (b) to read as follows:

§ 882.4440 Neurosurgical headrests.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

360. Section 882.4500 is amended by revising paragraph (b) to read as follows:

§ 882.4500 Cranioplasty material forming instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

361. Section 882.4525 is amended by revising paragraph (b) to read as follows:

§ 882.4525 Microsurgical instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

362. Section 882.4535 is amended by revising paragraph (b) to read as follows:

§ 882.4535 Nonpowered neurosurgical instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

363. Section 882.4600 is amended by revising paragraph (b) to read as follows:

§ 882.4600 Leukotome.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

364. Section 882.4900 is amended by revising paragraph (b) to read as follows:

§ 882.4900 Skullplate screwdriver.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 882.9.

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

365. The authority citation for 21 CFR part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

366. Section 884.1550 is amended by revising paragraph (b) to read as follows:

§ 884.1550 Amniotic fluid sampler (amniocentesis tray).

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 884.9.

367. Section 884.1640 is amended by revising paragraph (b)(2) to read as follows:

§ 884.1640 Culdoscope and accessories.

* * * * *

(b) * * *

(2) Class I for culdoscope accessories that are not part of a specialized instrument or device delivery system; do not have adapters, connectors, channels, or do not have portals for electrosurgical, laser, or other power sources. Such culdoscope accessory instruments include: lens cleaning brush, biopsy brush, clip applier (without clips), applicator, cannula (without trocar or valves), ligature carrier/needle holder, clamp/hemostat/grasper, curette, instrument guide, ligature passing and knotting instrument, suture needle (without suture), retractor, mechanical (noninflatable), snare, stylet, forceps, dissector, mechanical (noninflatable) scissors, and suction/irrigation probe. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

368. Section 884.1690 is amended by revising paragraph (b)(2) to read as follows:

§ 884.1690 Hysteroscope and accessories.

* * * * *

(b) * * *

(2) Class I for hysteroscope accessories that are not part of a specialized instrument or device delivery system; do not have adapters, connectors, channels, or do not have portals for electrosurgical, laser, or other power sources. Such hysteroscope accessory instruments include: lens cleaning brush, cannula (without trocar or valves), clamp/hemostat/grasper, curette, instrument guide, forceps, dissector, mechanical (noninflatable), and scissors. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

369. Section 884.1700 is amended by revising paragraph (b)(2) to read as follows:

§ 884.1700 Hysteroscopic insufflator.

* * * * *

(b) * * *

(2) Class I for tubing and tubing/filter fits which only include accessory instruments that are not used to effect intrauterine access, e.g., hysteroscopic introducer sheaths, etc.; and single-use tubing kits used for only intrauterine insufflation. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

370. Section 884.1720 is amended by revising paragraph (b)(2) to read as follows:

§ 884.1720 Gynecologic laparoscope and accessories.

* * * * *

(b) * * *

(2) Class I for gynecologic laparoscope accessories that are not part of a specialized instrument or device delivery system, do not have adapters, connector channels, or do not have portals for electrosurgical, lasers, or other power sources. Such gynecologic laparosope accessory instruments include: the lens cleaning brush, biopsy brush, clip applier (without clips), applicator, cannula (without trocar or valves), ligature carrier/needle holder, clamp/hemostat/grasper, curette, instrument guide, ligature passing and knotting instrument, suture needle (without suture), retractor, mechanical (noninflatable), snare, stylet, forceps, dissector, mechanical (noninflatable), scissors, and suction/irrigation probe. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

371. Section 884.1730 is amended by revising paragraph (b)(2) to read as follows:

§ 884.1730 Laparoscopic insufflator.

* * * * *

(b) * * *

(2) Class I for tubing and tubing/filter kits which include accessory instruments that are not used to effect intra-abdominal insufflation (pneumoperitoneum). The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

372. Section 884.2900 is amended by revising paragraph (b) to read as follows:

§ 884.2900 Fetal stethoscope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

373. Section 884.2980 is amended by revising paragraph (a)(2) to read as follows:

§ 884.2980 Telethermographic system.

(a) * * *

(2) *Classification.* Class I (general controls). The devices subject to this paragraph (a)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

* * * * *

374. Section 884.2982 is amended by revising paragraph (a)(2) to read as follows:

§ 884.2982 Liquid crystal thermographic system.

(a) * * *

(2) *Classification.* Class I (general controls). The devices subject to this paragraph (a)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

* * * * *

375. Section 884.4520 is amended by revising paragraph (b) to read as follows:

§ 884.4520 Obstetric-gynecologic general manual instrument.

* * * * *

(b) *Classification.* Class I (general controls). The devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

376. Section 884.4530 is amended by revising paragraph (b)(2) to read as follows:

§ 884.4530 Obstetric-gynecologic specialized manual instrument.

* * * * *

(b) * * *

(2) Class I for the amniotome, uterine curette, cervical dilator (fixed-size bougies), cerclage needle, IUD remover, uterine sound, and gynecological biopsy forceps. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

377. Section 884.5150 is amended by revising paragraph (b) to read as follows:

§ 884.5150 Nonpowered breast pump.

* * * * *

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9, if the device is using either a bulb or telescoping mechanism which does not develop more than 250 mm Hg suction, and the device materials that contact breast or breast milk do not produce cytotoxicity, irritation, or sensitization effects.

378. Section 884.5425 is amended by revising paragraph (b)(1) to read as follows:

§ 884.5425 Scented or scented deodorized menstrual pad.

* * * * *

(b) *Classification.* (1) Class I (general controls) for menstrual pads made of common cellulosic and synthetic material with an established safety profile. The devices subject to this paragraph (b)(1) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9. This exemption does not include the [intralabial] pads and reusable menstrual pads.

* * * * *

379. Section 884.5900 is amended by revising paragraph (b)(2) to read as follows:

§ 884.5900 Therapeutic vaginal douche apparatus.

* * * * *

(b) * * *

(2) Class I if the device is operated by gravity feed. Devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

380. Section 884.5920 is amended by revising paragraph (b) to read as follows:

§ 884.5920 Vaginal insufflator.

* * * * *

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

381. Section 884.6190 is amended by revising paragraph (b) to read as follows:

§ 884.6190 Assisted reproductive microscopes and microscope accessories.

* * * * *

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 884.9.

PART 886—OPHTHALMIC DEVICES

382. The authority citation for 21 CFR part 886 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

383. Section 886.1040 is amended by revising paragraph (b) to read as follows:

§ 886.1040 Ocular esthesiometer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

384. Section 886.1050 is amended by revising paragraph (b) to read as follows:

§ 886.1050 Adaptometer (biophotometer).

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

385. Section 886.1070 is amended by revising paragraph (b) to read as follows:

§ 886.1070 Anomaloscope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

386. Section 886.1090 is amended by revising paragraph (b) to read as follows:

§ 886.1090 Haidlinger brush.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

387. Section 886.1140 is amended by revising paragraph (b) to read as follows:

§ 886.1140 Ophthalmic chair.

* * * * *

(b) *Classification.* Class I. The AC-powered device and the manual device are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The manual device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

388. Section 886.1150 is amended by revising paragraph (b) to read as follows:

§ 886.1150 Visual acuity chart.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

389. Section 886.1160 is amended by revising paragraph (b) to read as follows:

§ 886.1160 Color vision plate illuminator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

390. Section 886.1170 is amended by revising paragraph (b) to read as follows:

§ 886.1170 Color vision tester.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

391. Section 886.1190 is amended by revising paragraph (b) to read as follows:

§ 886.1190 Distometer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

392. Section 886.1200 is amended by revising paragraph (b) to read as follows:

§ 886.1200 Optokinetic drum.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

393. Section 886.1250 is amended by revising paragraph (b) to read as follows:

§ 886.1250 Euthyscope.

* * * * *

(b) *Classification.* Class I for the battery powered device. The battery powered device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. Class II for the AC-powered device.

394. Section 886.1270 is amended by revising paragraph (b) to read as follows:

§ 886.1270 Exophthalmometer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

395. Section 886.1290 is amended by revising paragraph (b) to read as follows:

§ 886.1290 Fixation device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

396. Section 886.1320 is amended by revising paragraph (b) to read as follows:

§ 886.1320 Fornixscope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

397. Section 886.1330 is amended by revising paragraph (b) to read as follows:

§ 886.1330 Amsler grid.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

398. Section 886.1340 is amended by revising paragraph (b) to read as follows:

§ 886.1340 Haploscope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

399. Section 886.1375 is amended by revising paragraph (b) to read as follows:

§ 886.1375 Bagolini lens.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

400. Section 886.1380 is amended by revising paragraph (b) to read as follows:

§ 886.1380 Diagnostic condensing lens.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

401. Section 886.1390 is amended by revising paragraph (b) to read as follows:

§ 886.1390 Flexible diagnostic Fresnel lens.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

402. Section 886.1395 is amended by revising paragraph (b) to read as follows:

§ 886.1395 Diagnostic Hruby fundus lens.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

403. Section 886.1400 is amended by revising paragraph (b) to read as follows:

§ 886.1400 Maddox lens.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

404. Section 886.1405 is amended by revising paragraph (b) to read as follows:

§ 886.1405 Ophthalmic trial lens set.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

405. Section 886.1410 is amended by revising paragraph (b) to read as follows:

§ 886.1410 Ophthalmic trial lens clip.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

406. Section 886.1415 is amended by revising paragraph (b) to read as follows:

§ 886.1415 Ophthalmic trial lens frame.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

407. Section 886.1420 is amended by revising paragraph (b) to read as follows:

§ 886.1420 Ophthalmic lens gauge.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

408. Section 886.1425 is amended by revising paragraph (b) to read as follows:

§ 886.1425 Lens measuring instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

409. Section 886.1430 is amended by revising paragraph (b) to read as follows:

§ 886.1430 Ophthalmic contact lens radius measuring device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

410. Section 886.1435 is amended by revising paragraph (b) to read as follows:

§ 886.1435 Maxwell spot.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

411. Section 886.1450 is amended by revising paragraph (b) to read as follows:

§ 886.1450 Corneal radius measuring device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9, only when the device does not include computer software in the unit or topographers.

412. Section 886.1460 is amended by revising paragraph (b) to read as follows:

§ 886.1460 Stereopsis measuring instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

413. Section 886.1500 is amended by revising paragraph (b) to read as follows:

§ 886.1500 Headband mirror.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

414. Section 886.1605 is amended by revising paragraph (b) to read as follows:

§ 886.1605 Perimeter.

* * * * *

(b) *Classification.* Class I (general controls). The manual device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9 The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements

concerning records, and § 820.198, with respect to complaint files.

415. Section 886.1650 is amended by revising paragraph (b) to read as follows:

§ 886.1650 Ophthalmic bar prism.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

416. Section 886.1655 is amended by revising paragraph (b) to read as follows:

§ 886.1655 Ophthalmic Fresnel prism.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

417. Section 886.1660 is amended by revising paragraph (b) to read as follows:

§ 886.1660 Gonioscopic prism.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

418. Section 886.1665 is amended by revising paragraph (b) to read as follows:

§ 886.1665 Ophthalmic rotary prism.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

419. Section 886.1680 is amended by revising paragraph (b) to read as follows:

§ 886.1680 Ophthalmic projector.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

420. Section 886.1690 is amended by revising paragraph (b) to read as follows:

§ 886.1690 Pupillograph.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

421. Section 886.1700 is amended by revising paragraph (b) to read as follows:

§ 886.1700 Pupillometer.

* * * * *

(b) *Classification.* Class I (general controls). The AC-powered device and the manual device are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The manual device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

422. Section 886.1750 is amended by revising paragraph (b) to read as follows:

§ 886.1750 Skiascopic rack.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

423. Section 886.1760 is amended by revising paragraph (b) to read as follows:

§ 886.1760 Ophthalmic refractometer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

424. Section 886.1770 is amended by revising paragraph (b) to read as follows:

§ 886.1770 Manual refractor.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

425. Section 886.1790 is amended by revising paragraph (b) to read as follows:

§ 886.1790 Nearpoint ruler.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

426. Section 886.1800 is amended by revising paragraph (b) to read as follows:

§ 886.1800 Schirmer strip.

* * * * *

(b) *Classification.* Class I (general controls). If the device is made of the same materials that were used in the device before May 28, 1976, the device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

427. Section 886.1810 is amended by revising paragraph (b) to read as follows:

§ 886.1810 Tangent screen (campimeter).

* * * * *

(b) *Classification.* Class I (general controls). The AC-powered device and the battery-powered device are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The battery-powered device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

428. Section 886.1840 is amended by revising paragraph (b) to read as follows:

§ 886.1840 Simulatan (including crossed cylinder).

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

429. Section 886.1860 is amended by revising paragraph (b) to read as follows:

§ 886.1860 Ophthalmic instrument stand.

* * * * *

(b) *Classification.* Class I (general controls). The AC-powered device and the battery-powered device are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The battery-powered device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

430. Section 886.1870 is amended by revising paragraph (b) to read as follows:

§ 886.1870 Stereoscope.

* * * * *

(b) *Classification.* Class I (general controls). The AC-powered device and the battery-powered device are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The battery-powered device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

431. Section 886.1880 is amended by revising paragraph (b) to read as follows:

§ 886.1880 Fusion and stereoscopic target.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

432. Section 886.1905 is amended by revising paragraph (b) to read as follows:

§ 886.1905 Nystagmus tape.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

433. Section 886.1910 is amended by revising paragraph (b) to read as follows:

§ 886.1910 Spectacle dissociation test system.

* * * * *

(b) *Classification.* Class I (general controls). The AC-powered device and the battery-powered device are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The battery-powered device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

434. Section 886.1945 is amended by revising paragraph (b) to read as follows:

§ 886.1945 Transilluminator.

* * * * *

(b) *Classification.* Class I for the battery-powered device. The battery-powered device is also exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. Class II for the AC-powered device.

435. Section 886.3200 is amended by revising paragraph (b) to read as follows:

§ 886.3200 Artificial eye.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9, if the device is made from the same materials, has the same chemical composition, and uses the same manufacturing processes as currently legally marketed devices.

436. Section 886.4230 is amended by revising paragraph (b) to read as follows:

§ 886.4230 Ophthalmic knife test drum.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

437. Section 886.4250 is amended by revising paragraph (b) to read as follows:

§ 886.4250 Ophthalmic electrolysis unit.

* * * * *

(b) *Classification.* Class I for the battery-powered device. Class II for the AC-powered device. The battery-powered device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

438. Section 886.4335 is amended by revising paragraph (b) to read as follows:

§ 886.4335 Operating headlamp.

* * * * *

(b) *Classification.* Class I for the battery-powered device. Class II for the AC-powered device. The battery-powered device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

439. Section 886.4350 is amended by revising paragraph (b) to read as follows:

§ 886.4350 Manual ophthalmic surgical instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

440. Section 886.4360 is amended by revising paragraph (b) to read as follows:

§ 886.4360 Ocular surgery irrigation device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

441. Section 886.4445 is amended by revising paragraph (b) to read as follows:

§ 886.4445 Permanent magnet.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

442. Section 886.4570 is amended by revising paragraph (b) to read as follows:

§ 886.4570 Ophthalmic surgical marker.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

443. Section 886.4770 is amended by revising paragraph (b) to read as follows:

§ 886.4770 Ophthalmic operating spectacles (loupes).

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

444. Section 886.4855 is amended by revising paragraph (b) to read as follows:

§ 886.4855 Ophthalmic instrument table.

* * * * *

(b) *Classification.* Class I (general controls). The AC-powered device and the manual device are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The manual device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

445. Section 886.5120 is amended by revising paragraph (b) to read as follows:

§ 886.5120 Low-power binocular loupe.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

446. Section 886.5420 is amended by revising paragraph (b) to read as follows:

§ 886.5420 Contact lens inserter/remover.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

447. Section 886.5540 is amended by revising paragraph (b) to read as follows:

§ 886.5540 Low-vision magnifier.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

448. Section 886.5600 is amended by revising paragraph (b) to read as follows:

§ 886.5600 Ptosis crutch.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

449. Section 886.5800 is amended by revising paragraph (b) to read as follows:

§ 886.5800 Ophthalmic bar reader.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

450. Section 886.5810 is amended by revising paragraph (b) to read as follows:

§ 886.5810 Ophthalmic prism reader.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

451. Section 886.5820 is amended by revising paragraph (b) to read as follows:

§ 886.5820 Closed-circuit television reading system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

452. Section 886.5840 is amended by revising paragraph (b) to read as follows:

§ 886.5840 Magnifying spectacles.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

453. Section 886.5842 is amended by revising paragraph (b) to read as follows:

§ 886.5842 Spectacle frame.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

454. Section 886.5844 is amended by revising paragraph (b) to read as follows:

§ 886.5844 Prescription spectacle lens.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

455. Section 886.5870 is amended by revising paragraph (b) to read as follows:

§ 886.5870 Low-vision telescope.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

456. Section 886.5900 is amended by revising paragraph (b) to read as follows:

§ 886.5900 Electronic vision aid.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9.

457. Section 886.5910 is amended by revising paragraph (b) to read as follows:

§ 886.5910 Image intensification vision aid.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning

records, and § 820.198, with respect to complaint files.

458. Section 886.5915 is amended by revising paragraph (b) to read as follows:

§ 886.5915 Optical vision aid.

* * * * *

(b) *Classification.* Class I (general controls). The AC-powered device and the battery-powered device are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 886.9. The battery-powered device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

PART 888—ORTHOPEDIC DEVICES

459. The authority citation for 21 CFR part 888 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

460. Section 888.1100 is amended by revising paragraph (b)(2) to read as follows:

§ 888.1100 Arthroscope.

* * * * *

(b) * * *

(2) Class I for the following manual arthroscopic instruments: cannulas, currettes, drill guides, forceps, gouges, graspers, knives, obturators, osteotomes, probes, punches, rasps, retractors, rongeurs, suture passers, suture knotpushers, suture punches, switching rods, and trocars. The devices subject to this paragraph (b)(2) are exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

461. Section 888.1520 is amended by revising paragraph (b) to read as follows:

§ 888.1520 Nonpowered goniometer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

462. Section 888.3000 is amended by revising paragraph (b) to read as follows:

§ 888.3000 Bone cap.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

463. Section 888.4150 is amended by revising paragraph (b) to read as follows:

§ 888.4150 Calipers for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

464. Section 888.4200 is amended by revising paragraph (b) to read as follows:

§ 888.4200 Cement dispenser.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

465. Section 888.4210 is amended by revising paragraph (b) to read as follows:

§ 888.4210 Cement mixer for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

466. Section 888.4220 is amended by revising paragraph (b) to read as follows:

§ 888.4220 Cement monomer vapor evacuator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

467. Section 888.4230 is amended by revising paragraph (b) to read as follows:

§ 888.4230 Cement ventilation tube.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

468. Section 888.4300 is amended by revising paragraph (b) to read as follows:

§ 888.4300 Depth gauge for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

469. Section 888.4540 is amended by revising paragraph (b) to read as follows:

§ 888.4540 Orthopedic manual surgical instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

470. Section 888.4600 is amended by revising paragraph (b) to read as follows:

§ 888.4600 Protractor for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

471. Section 888.4800 is amended by revising paragraph (b) to read as follows:

§ 888.4800 Template for clinical use.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

472. Section 888.5850 is amended by revising paragraph (b) to read as follows:

§ 888.5850 Nonpowered orthopedic traction apparatus and accessories.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

473. Section 888.5890 is amended by revising paragraph (b) to read as follows:

§ 888.5890 Noninvasive traction component.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

474. Section 888.5940 is amended by revising paragraph (b) to read as follows:

§ 888.5940 Cast component.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

475. Section 888.5960 is amended by revising paragraph (b) to read as follows:

§ 888.5960 Cast removal instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9.

476. Section 888.5980 is amended by revising paragraph (b) to read as follows:

§ 888.5980 Manual cast application and removal instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 888.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

PART 890—PHYSICAL MEDICINE DEVICES

477. The authority citation for 21 CFR part 890 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

478. Section 890.1575 is amended by revising paragraph (b) to read as follows:

§ 890.1575 Force-measuring platform.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

479. Section 890.1600 is amended by revising paragraph (b) to read as follows:

§ 890.1600 Intermittent pressure measurement system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

480. Section 890.1615 is amended by revising paragraph (b) to read as follows:

§ 890.1615 Miniature pressure transducer.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

481. Section 890.3025 is amended by revising paragraph (b) to read as follows:

§ 890.3025 Prosthetic and orthotic accessory.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

482. Section 890.3075 is amended by revising paragraph (b) to read as follows:

§ 890.3075 Cane.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

483. Section 890.3100 is amended by revising paragraph (b) to read as follows:

§ 890.3100 Mechanical chair.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

484. Section 890.3150 is amended by revising paragraph (b) to read as follows:

§ 890.3150 Crutch.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

485. Section 890.3175 is amended by revising paragraph (b) to read as follows:

§ 890.3175 Flotation cushion.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

486. Section 890.3410 is amended by revising paragraph (b) to read as follows:

§ 890.3410 External limb orthotic component.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

487. Section 890.3420 is amended by revising paragraph (b) to read as follows:

§ 890.3420 External limb prosthetic component.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

488. Section 890.3475 is amended by revising paragraph (b) to read as follows:

§ 890.3475 Limb orthosis.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

489. Section 890.3490 is amended by revising paragraph (b) to read as follows:

§ 890.3490 Truncal orthosis.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

490. Section 890.3520 is amended by revising paragraph (b) to read as follows:

§ 890.3520 Plinth.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

491. Section 890.3640 is amended by revising paragraph (b) to read as follows:

§ 890.3640 Arm sling.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

492. Section 890.3665 is amended by revising paragraph (b) to read as follows:

§ 890.3665 Congenital hip dislocation abduction splint.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

493. Section 890.3675 is amended by revising paragraph (b) to read as follows:

§ 890.3675 Denis Brown splint.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

494. Section 890.3700 is amended by revising paragraph (b) to read as follows:

§ 890.3700 Nonpowered communication system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

495. Section 890.3750 is amended by revising paragraph (b) to read as follows:

§ 890.3750 Mechanical table.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

496. Section 890.3760 is amended by revising paragraph (b) to read as follows:

§ 890.3760 Powered table.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

497. Section 890.3790 is amended by revising paragraph (b) to read as follows:

§ 890.3790 Cane, crutch, and walker tips and pads.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

498. Section 890.3825 is amended by revising paragraph (b) to read as follows:

§ 890.3825 Mechanical walker.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

499. Section 890.3910 is amended by revising paragraph (b) to read as follows:

§ 890.3910 Wheelchair accessory.

* * * * *

(b) *Classification.* Class I (general controls). If the device is not intended for use as a protective restraint as defined in § 880.6760 of this chapter, it is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records, and § 820.198, regarding complaint files.

500. Section 890.3920 is amended by revising paragraph (b) to read as follows:

§ 890.3920 Wheelchair component.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

501. Section 890.3940 is amended by revising paragraph (b) to read as follows:

§ 890.3940 Wheelchair platform scale.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

502. Section 890.5050 is amended by revising paragraph (b) to read as follows:

§ 890.5050 Daily activity assist device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. If the device is not labeled or otherwise represented as sterile, the device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

503. Section 890.5125 is amended by revising paragraph (b) to read as follows:

§ 890.5125 Nonpowered sitz bath.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

504. Section 890.5350 is amended by revising paragraph (b) to read as follows:

§ 890.5350 Exercise component.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

505. Section 890.5370 is amended by revising paragraph (b) to read as follows:

§ 890.5370 Nonmeasuring exercising equipment.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

506. Section 890.5380 is amended by revising paragraph (b) to read as follows:

§ 890.5380 Powered exercise equipment.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

507. Section 890.5410 is amended by revising paragraph (b) to read as follows:

§ 890.5410 Powered finger exerciser.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

508. Section 890.5660 is amended by revising paragraph (b) to read as follows:

§ 890.5660 Therapeutic massager.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

509. Section 890.5730 is amended by revising paragraph (b) to read as follows:

§ 890.5730 Moist heat pack.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

510. Section 890.5765 is amended by revising paragraph (b) to read as follows:

§ 890.5765 Pressure-applying device.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

511. Section 890.5925 is amended by revising paragraph (b) to read as follows:

§ 890.5925 Traction accessory.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, regarding general requirements concerning records and § 820.198, regarding complaint files.

512. Section 890.5940 is amended by revising paragraph (b) to read as follows:

§ 890.5940 Chilling unit.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9

513. Section 890.5950 is amended by revising paragraph (b) to read as follows:

§ 890.5950 Powered heating unit.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

514. Section 890.5975 is amended by revising paragraph (b) to read as follows:

§ 890.5975 Therapeutic vibrator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

PART 892—RADIOLOGY DEVICES

515. The authority citation for 21 CFR part 892 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

516. Section 892.1100 is amended by revising paragraph (b) to read as follows:

§ 892.1100 Scintillation (gamma) camera.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

517. Section 892.1110 is amended by revising paragraph (b) to read as follows:

§ 892.1110 Positron camera.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

518. Section 892.1130 is amended by revising paragraph (b) to read as follows:

§ 892.1130 Nuclear whole body counter.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

519. Section 892.1300 is amended by revising paragraph (b) to read as follows:

§ 892.1300 Nuclear rectilinear scanner.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

520. Section 892.1370 is amended by revising paragraph (b) to read as follows:

§ 892.1370 Nuclear anthropomorphic phantom.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

521. Section 892.1380 is amended by revising paragraph (b) to read as follows:

§ 892.1380 Nuclear flood source phantom.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

522. Section 892.1400 is amended by revising paragraph (b) to read as follows:

§ 892.1400 Nuclear sealed calibration source.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

523. Section 892.1420 is amended by revising paragraph (b) to read as follows:

§ 892.1420 Radionuclide test pattern phantom.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

524. Section 892.1640 is amended by revising paragraph (b) to read as follows:

§ 892.1640 Radiographic film marking system.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

525. Section 892.1700 is amended by revising paragraph (b) to read as follows:

§ 892.1700 Diagnostic x-ray high voltage generator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

526. Section 892.1760 is amended by revising paragraph (b) to read as follows:

§ 892.1760 Diagnostic x-ray tube housing assembly.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

527. Section 892.1770 is amended by revising paragraph (b) to read as follows:

§ 892.1770 Diagnostic x-ray tube mount.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

528. Section 892.1830 is amended by revising paragraph (b) to read as follows:

§ 892.1830 Radiologic patient cradle.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

529. Section 892.1840 is amended by revising paragraph (b) to read as follows:

§ 892.1840 Radiographic film.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

530. Section 892.1880 is amended by revising paragraph (b) to read as follows:

§ 892.1880 Wall-mounted radiographic cassette holder.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

531. Section 892.1920 is amended by revising paragraph (b) to read as follows:

§ 892.1920 Radiographic head holder.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

532. Section 892.1940 is amended by revising paragraph (b) to read as follows:

§ 892.1940 Radiologic quality assurance instrument.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

533. Section 892.1950 is amended by revising paragraph (b) to read as follows:

§ 892.1950 Radiographic anthropomorphic phantom.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9. The device is also exempt from the current good manufacturing practice regulations in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

534. Section 892.5740 is amended by revising paragraph (b) to read as follows:

§ 892.5740 Radionuclide teletherapy source.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

535. Section 892.5780 is amended by revising paragraph (b) to read as follows:

§ 892.5780 Light beam patient position indicator.

* * * * *

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 892.9.

Dated: June 21, 2001.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

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July 25, 2001

Part III

Department of Energy

Office of Efficiency and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards; Proposed Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket Number EE–RM–98–440]

RIN 1904–AA77

Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Supplemental proposed rule; proposed withdrawal of final rule.

SUMMARY: In response to a petition for reconsideration, and as a result of review under President Bush's Regulatory Review Plan, the Department of Energy (DOE) is proposing to withdraw its January 22, 2001 final rule setting forth energy conservation standards for residential central air conditioners and central air conditioning heat pumps that are not yet effective and not enforceable until January 23, 2006. As a substitute, DOE proposes to amend the currently enforceable standards by raising the minimum energy efficiency levels by 20 percent. DOE also invites public comment on proposed regulatory amendments to define and implement statutory limitations on its authority to prescribe amended energy conservation standards.

DATES: Comments must be received on or before October 9, 2001. DOE is requesting a signed original, a computer diskette (WordPerfect 8) and 10 copies of the written comments. DOE will also accept e-mailed comments, but you must send a signed original. Oral views, data, and arguments may be presented at the public hearing in Washington, DC., beginning at 9 a.m. on September 13, 2001.

DOE must receive requests to speak at the public hearing and a copy of your statements no later than 4 p.m., September 10, 2001, and we request that you provide a computer diskette (WordPerfect 8) of each statement at that time.

ADDRESSES: Please submit written comments, oral statements, and requests to speak at the public hearing to: Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products: Central Air Conditioners and Heat Pumps, Docket No. EE–RM/STD–98–440, 1000 Independence Avenue, SW., Washington, DC 20585–0121. You may send emails to: brenda.edwards-jones@ee.doe.gov.

The hearing will begin at 9:00 a.m., in Room 1E–245 at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington DC. You can find more information concerning public participation in this rulemaking proceeding in Section VII, ''Public Comment,'' of this notice of proposed rulemaking (NOPR).

You may read copies of the public comments, the Technical Support Document for Energy Efficiency Standards for Consumer Products: Central Air Conditioners and Heat Pumps (TSD), the transcript of the public hearing, workshop transcripts in this proceeding, the petition for reconsideration submitted by the Air-Conditioning and Refrigeration Institute, and other post-promulgation submissions at the DOE Freedom of Information (FOI) Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may obtain copies of the TSD and analysis spreadsheets from the Office of Energy Efficiency and Renewable Energy's (EERE) web site at: http://www.eren.doe.gov/buildings/codes_standards/applbrf/central_air_conditioner.html.

FOR FURTHER INFORMATION CONTACT: Dr. Michael E. McCabe, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, EE–41, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586-0854, e-mail: ME.mccabe@ee.doe.gov, or Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507, e-mail: eugene.margolis@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Authority to Reconsider the January 22, 2001, Final Rule
III. Proposal to Withdraw Final Rule
A. Legal Issues
1. Failure to Obtain the Views of the Department of Justice on the Potential Anti-Competitive Impact of 13 SEER Standards
2. Failure of the Statement of Basis for the Final Rule to Adequately Address Cumulative Regulatory Burdens on Manufacturers
B. Policy Issues
1. Burdens on Consumers
2. Burdens on Manufacturers
a. Cumulative Regulatory Burden
b. Financial Burdens Associated with New Standards
C. Conclusion
IV. Proposed Rule
A. Background
1. Statutory Authority
2. Rulemaking History
B. Overview of the Proposed Standards
1. Central Air Conditioner and Heat Pump Features
2. Consumer Benefits
3. National Benefits
C. Technological Feasibility
D. General Discussion of Economic Justification Factors
1. Economic Impact on Manufacturers and Consumers
2. Life-Cycle Costs and Rebuttable Presumption
3. Energy Savings
4. Lessening of Utility or Performance of Products
5. Impact of Lessening of Competition
6. Need of the Nation to Conserve Energy
7. Other Factors
E. Methodology Used in DOE Analyses
V. Analytical Results and Conclusions
A. Overview of Analytical Results
1. General
2. Through-the-Wall Products
3. Other Space-Constrained Products
B. Re-weighting of Factors
1. Re-weighting of Burdens on Consumers
2. Re-weighting of Burdens on Manufacturers
a. Cumulative Regulatory Burden
b. Financial Burdens Associated with New Efficiency Standards
C. Conclusions Regarding Conventional Products
D. Conclusions Regarding Space-Constrained Products
VI. Procedural Issues and Regulatory Review
A. Review Under the National Environmental Policy Act
B. Review Under Executive Order 12866
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under Executive Order 12988
F. Review Under Executive Order 12630
G. Review Under Executive Order 13132
H. Review Under the Unfunded Mandates Reform Act of 1995
I. Review Under the Treasury and General Government Appropriations Act, 1999
J. Review Under Executive Order 13211
VII. Public Comment
A. Written Comment Procedures
B. Public Workshop/Hearing
1. Procedure for submitting Request to Speak
2. Conduct of Hearing

I. Introduction

Pursuant to section 325 of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6295) and the Administrative

Procedure Act (APA) (5 U.S.C. 553), DOE today publishes a three part proposal with regard to energy conservation standards for central air conditioners and central air conditioning heat pumps. First, DOE proposes regulatory provisions to clarify that section 325(o)(1), which qualifies DOE's rulemaking authority to prescribe amended energy conservation standards, applies as of an effective date for modifying the Code of Federal Regulations (CFR) set forth in the notice of final rulemaking and established consistent with the Congressional Review Act (5 U.S.C. 801–804). Second, in order to correct arguable legal errors and policy shortcomings, DOE proposes to withdraw the final rule entitled ''Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pump Energy Conservation Standards' which was published in the **Federal Register** (FR) on January 22, 2001 (61 FR 7170). Third, based on: (1) Previous determinations regarding the significance of potential energy savings, technological feasibility, and other factors; and (2) factual information already in the record, DOE proposes to determine that elevation of the currently enforceable central air conditioner and central air conditioning heat pump energy conservation standards by 20 percent is the maximum increase that is economically justified. Consistent with that proposed determination and except for through-the-wall product classes, DOE proposes a Seasonal Energy Efficiency Rating (SEER) of 12 with a corresponding Heating System Performance Factor (HSPF) of 7.4 which would apply to manufacturers in 2006. With respect to space-constrained, through-the-wall product classes, DOE is today proposing more modest increases in the existing standards, which is discussed later in this **SUPPLEMENTARY INFORMATION.**

Today's action partly is a result of DOE activities under President Bush's Regulatory Review Plan. Pursuant to that plan, DOE conducted an internal review of the three final rules issued under section 325 of EPCA that DOE published at the end of the Clinton Administration, including final rules concerning energy conservation standards for clothes washers, water heaters, and central air conditioners and central air conditioning heat pumps. Consistent with the EPCA criteria for determining whether a standard level is economically justified under section 325 (42 U.S.C. 6295(o)(2)(B)), DOE examined each of these rules to determine, among other things, whether the rulemaking record was complete and whether the affirmative determination of economic justification was based on adequate findings with regard to the statutorily required considerations that make up the test of economic justification.

While DOE examined the three appliance energy conservation standards rulemakings under the President's Regulatory Review Plan, DOE received petitions for reconsideration for each final rule. In addition, DOE received notice that the Gas Appliance Manufacturers Association (with regard to the water heater rule) and the Air-Conditioning and Refrigeration Institute (ARI) (with regard to the central air conditioner rule) filed petitions for review in the United States Court of Appeals for the Fourth Circuit.

While DOE did not seek public comment as part of the internal review conducted under the President's Regulatory Review Plan or with regard to the petitions for reconsideration, DOE received written statements in opposition to reconsideration of each of the three final rules. DOE also had an informal meeting with representatives of various environmental advocacy groups who had already filed statements opposing reconsideration of the water heater and the central air conditioner final rules.

Ultimately, DOE decided that neither the clothes washer rule nor the water heater rule warranted further rulemaking action and denied the related petitions for reconsideration. See 66 FR 19714 (April 17, 2001). With regard to central air conditioners and central air conditioning heat pumps, DOE concluded that ARI had raised substantial questions as to the legal sufficiency of the January 22, 2001 final rule and that the interests of justice therefore dictated that DOE further postpone the rule's effective date in light of the pendency of ARI's petition for judicial review in the Fourth Circuit and its related petition for reconsideration. 66 FR 20191 (April 20, 2001). At that time DOE indicated that it would likely resolve these issues through supplemental rulemaking that would be forthcoming shortly.

For the reasons discussed in section III of this notice, DOE has now concluded that the January 22, 2001 final rule should be reconsidered and therefore grants ARI's petition. In particular, DOE is of the view that: (1) DOE should have invited the Department of Justice to submit a supplemental determination on the potential anti-competitive impact; (2) the statement of basis for the final rule did not sufficiently explain DOE's consideration of cumulative burden attributable to other Federal agencies' and State regulatory actions, which was necessary to DOE's conclusion regarding the potential impact of the final rule on manufacturers; and (3) DOE gave inadequate weight to the potential impact of higher installation and equipment costs on some types of consumers and to potential burdens on manufacturers.

DOE recognizes that its conclusion that the January 22, 2001 final rule was questionable on legal and policy grounds and the initiation of litigation in the Fourth Circuit has left less than ideal options for a rulemaking that, had it been concluded on time, would have been final on January 1, 1994 (42 U.S.C. 6295(d)). If DOE were to allow the January 22, 2001 final rule to become effective, there is a significant possibility of a court ordered remand for further consideration. The length of time it would take to deal with consequences of a court ordered remand would be substantial. It was just this sort of consideration that motivated Congress to enact the 1987 amendments to EPCA that require this rulemaking. As the legislative history of those amendments makes clear, an underlying legislative purpose was to cure the problem of indefinite delay that followed the decision in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355 (D.C. Cir. 1985) which vacated and remanded an appliance energy conservation standards rulemaking. *See* S. Rep. No. 100–6, 100th Cong, 1st Sess., 4 (1987) and H.R. Rep. No. 100–11, 100th Cong., 1st Sess., 28 (1987). DOE also recognizes that, given the opposition to reconsideration, there is a near certainty of a lawsuit challenging DOE's further rulemaking actions. However, since litigation appears to be inevitable regardless of what option DOE chooses, DOE has concluded that the better course is to reopen the rulemaking record on issues regarding economic justification with the objective of publishing, after considering public comments, a final rule, as soon as possible in 2001.

II. Authority and Policy Regarding Reconsideration of Final Rules Under Section 325(o)(1) of EPCA

In reviewing the January 22, 2001 final rule under the President's Regulatory Review Plan, and in considering ARI's petition for reconsideration and the statement in opposition to it, DOE has had the occasion to construe and apply the provisions of section 325(o)(1) of EPCA for the first time since they were added

to EPCA by the National Appliance Energy Conservation Act of 1987 (NAECA) (Pub. L. 100–12). In relevant part, section 325(o)(1) of EPCA provides as follows:

> The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, * * * or decreases the minimum required energy efficiency, of a covered product.

42 U.S.C. 6295(o)(1).

In its petition for reconsideration, ARI said the following about section 325(o)(1):

> We note that the provision in EPCA that prohibits decreasing the minimum required energy efficiency of covered products, 42 U.S.C. 562(o)(1)[*sic*], is inapplicable here. 10 SEER is the minimum required energy efficiency. New efficiency minimum would not be required under the rule until several years from now (the rule provides for such minimums in 2006). Moreover, the effective date of the rule has been suspended, and there is pending litigation challenging the validity of the rule. Thus, there has been no final result related to the rulemaking.

ARI Petition, p. 3, n. 2.

Referring to the 1987 amendments to EPCA, the environmental advocacy organizations argued that ''it is clear that, under NAECA, DOE may not amend the rule to weaken its energy efficiency standards.'' After quoting from section 325(o)(1), they went on to say:

> Thus DOE is statutorily precluded from amending the Final Rule to weaken its energy efficiency standards, as ARI requests in its petition. ARI's argument (Petition at footnote 2) that this provision is ''inapplicable'' because the rule phases in tighter energy efficiency standards over time, is incorrect. * * * The timing of the phase-in of these standards is irrelevant.

Statement in Opposition, p. 5.

Although the diametrically opposed conclusions reached by ARI and the environmental advocacy organizations' response are clear enough, those conclusions are based on arguments that are too summary to evaluate. DOE's interpretation of the statute is set forth below, and DOE invites ARI and the environmental advocacy organizations to reexamine their respective positions and to comment on DOE's analysis and the resulting proposed amendments to 10 CFR Part 430.

The starting point for analysis is the text of the statute. The critical term in section 325(o)(1) is ''minimum required energy efficiency.'' EPCA does not define this term. However, in context, it is clear that a SEER and an HSPF are benchmarks of ''minimum required energy efficiency'' for central air conditioners and central air conditioning heat pumps. See 42 U.S.C. 6295(d)(1) and (d)(2). The key question, however, is which SEER and HSPF represent the ''minimum required energy efficiency'' for central air conditioners and central air conditioning heat pumps that may not be decreased by an amended standard.

Had the new SEER and HSPF set out in the January 22, 2001 final rule been allowed to take effect, but (as the rule set forth) been made applicable only to appliances manufactured on or after January 23, 2006, we think this would be a close question. A reasonable argument could be made that the new SEER and HSPF became ''required'' immediately as to such appliances provided they were manufactured on or after January 23, 2006. A reasonable argument could also be made that the new SEER and HSPF would not be ''required'' until January 23, 2006, when appliances manufactured after that date would have had to comply with them. We address this question, and other considerations bearing on the answer to it, at greater length below.

In fact, however, the January 22, 2001 final rule expressly stated that the amendments it set out to existing standards in the Code of Federal Regulations would not take effect until 30 days after publication in the **Federal Register**. Well before that date arrived, on February 2, 2001, DOE postponed that effective date for an additional 60 days. Before that 60-day period had passed, on April 18, 2001, DOE further postponed the amendments' effective date pending the outcome of petitions by ARI for reconsideration and for judicial review.

As a result, the new SEER and HSPF, though set out in a final rule, never in any sense achieved the status of being the ''required'' ''minimum energy efficiency'' benchmarks. There has never been a single moment under any understanding of the word ''required'' at which any central air conditioner or central air conditioning heat pump, including one manufactured after January 23, 2006, could even arguably have been legally required to be manufactured in conformity with them. Hence, whatever might have been the case had the January 22 final rule been allowed to take effect, we do not see how the publication of a final rule that would have changed those standards, but was prevented by later agency action from doing so, could possibly establish ''minimum required energy efficiency'' benchmarks.

This interpretation of ''minimum required energy efficiency'' is reinforced by the rest of the sentence in section 325(o)(1) of which the phrase is a part. That sentence establishes a limitation on the ''amended standards'' the Secretary may prescribe. That wording strongly suggests that the ''minimum required energy efficiency'' levels below which the Secretary may not go are the ones established by the standards being amended. Because of the various actions postponing the effective date of the amendments to the standards it proposed, the January 22, 2001 rule never actually effectuated any amendment to the prior standards. Therefore, the standards that we now propose to amend are not the ones that would have been in place had the amendments set out in the January 22 rule actually been made. Rather, they are the standards prescribed by EPCA (SEER of 10.0 and HSPF of 6.8 for split systems manufactured after January 1, 1992, SEER of 9.7 and HSPF of 6.6 for single package systems manufactured after January 1, 1993), unamended until now by anything, including the never-made-effective amendments set out in the January 22, 2001 rule.

In our view, the foregoing analysis establishes that EPCA is unambiguous on the question of whether standards that are published in the **Federal Register**, but not yet effective, represent the ''minimum required energy efficiency'' for central air conditioners and central air conditioning heat pumps. Clearly, the standards set out in the January 22, 2001 notice of final rulemaking cannot be the ''minimum required energy efficiency'' benchmarks for purposes of section 325(o)(1).[1] The question remains whether DOE should construe the term ''minimum required energy efficiency'' to mean (A) energy efficiency standards that are not yet enforceable against the manufacturers, but that have been prescribed in a final rule amending prior standards, which amendments have been made to the CFR pursuant to an effective date that has passed; or (B) energy efficiency standards that are currently enforceable against the manufacturers if they manufacture and sell a non-compliant product.

DOE believes that alternative (A) is the preferable construction of the term, but only if the effective date selected for the final rule is consistent with other applicable laws and regulations and allows the Secretary an opportunity promptly to correct legal and policy errors that may have been contained in the final rule. If that precondition is satisfied, DOE believes alternative (A) will better advance the relevant

[1] We also believe that even if the statute were found to be ambiguous, for the reasons set out in the discussion that follows, that would not be the interpretation that we should select as a matter of policy.

statutory and policy considerations underlying section 325(o)(1): to promote greater energy efficiency while providing greater certainty to manufacturers who must plan and make the expenditures necessary to comply with an amended energy conservation standard—which is often a multi-year endeavor with substantial costs. We note that the relative certainty the interpretation set out in alternative (A) produces for manufacturers, which is a key comparative advantage of this interpretation over the competing one, is intimately tied to a proper effective date choice that facilitates prompt error correction, thereby potentially avoiding litigation that would seriously undermine the certainty sought to be achieved.

DOE believes that this resolution of the ambiguities in the statute is consistent with the statute's text, structure, legislative history, and the fundamental policy choices it makes. We believe that on balance this approach better accomplishes the statute's objectives than either adopting alternative (A) without the qualification set out above, thereby establishing a set of procedures that could have the effect of preventing the Secretary, within a short period after publication of a final rule that would modify such standards, from correcting defects in them that subsequently come to his attention; or adopting alternative (B), thereby reading the phrase ''minimum required energy efficiency'' to encompass only energy efficiency standards as of the date upon which manufacturers have to comply with those standards. Although at least the latter approach may well be a permissible interpretation of section 325(o)(1), DOE believes that the view set out in our proposed rule is the better one. DOE invites members of the public to comment on this proposed policy.

The latter view—that a standard is only covered by section 325(o)(1) after manufacturers are required to comply with it—does at first blush appear to be the most natural reading of the phrase. This view, however, is in tension with the rest of the sentence, which, as explained above, suggests that the relevant point of comparison is the standard being amended, regardless of whether manufacturers actually have to comply with it. Moreover, if adopted, this view would allow the Secretary to change the energy efficiency standards right up to the minute before the compliance date. This seems to slight important reliance interests given significant weight in other respects by EPCA's provisions on central air conditioner standards. For example, section 325(d) provides that with respect to central air conditioners, any amended standard contained in a final rule published on January 1, 1994 can apply only to products manufactured on or after January 1, 1999. It similarly provides that any amended standard contained in a final rule published between January 1, 1994 and January 1, 2001 can apply only to products manufactured on or after January 1, 2006. The purpose of these delays is plainly to give manufacturers a significant amount of time to develop and manufacture new products after a new standard is adopted but before it becomes enforceable, thereby greatly diminishing the costs imposed by new standards. These delays also suggest that a change of standard on the eve of the manufacture of a product would be quite disruptive—which stands to reason given the lead-time necessary to be in a position to manufacture a compliant product. Thus, to allow a standard to be blocked at the last minute before the compliance deadline would potentially leave a rather large residual uncertainty difficult to reconcile with the central purpose of establishing a climate of regulatory stability served by these closely related portions of EPCA.

The legislative history of section 325(o)(1), although sparse, also suggests that this interpretation may not be the one best suited to accomplish the statute's objectives. That history suggests that section 325(o)(1) itself was in fact also intended in significant measure to promote regulatory certainty—a goal it would not achieve very effectively, given the importance of such certainty not only at the time of manufacture but well before manufacture has begun, if the provision is interpreted to apply to a standard only after the compliance date for that standard has passed.

The only significant information in section 325(o)(1)'s history appears in the committee reports which comment on identical bill language that was ultimately enacted without change. In the Senate bill, the language that became section 325(o)(1) was denominated new section 325(j). The Senate report says the following about that new section:

> New section 325(j) establishes the criteria by which the Secretary may prescribe new or amended standards. The Secretary may not increase the maximum allowable energy use or decrease the minimum required energy efficiency of a covered product.

Senate Report No.100–6 at p.8. That statement paraphrases the bill language without shedding any light on what the language was supposed to mean.

By contrast, the House report does add to our understanding by identifying at least what the House committee thought the purpose of the bill language was. In describing that language, which appears in new section 325(l)(1) of the House bill, the House report states:

> DOE may not prescribe an amended standard that increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. The purpose of this requirement is to prevent the Secretary from weakening any energy conservation standard for a covered product, whether established in this Act or subsequently adopted. This serves to maintain a climate of relative stability with respect to future planning by all interested parties * * *

House Report No. 100–11 at p. 22. Since the Senate report differs from the House report and no conference committee report exists, the House report language does not represent the views of the Congress as a whole. Therefore, that language should be used cautiously as a contributory factor in construing section 325(o)(1) and framing implementing regulations.

The House report language indicates that the term ''minimum required energy efficiency'' includes both the legislated standards established by Congress in 1987 and amended standards ''subsequently adopted.'' However, the word ''adopted'' is not a term that is used in EPCA or the APA. As applied to the sequence of steps that make up the rulemaking process, it is unclear which step is deemed to be the moment that an amended standard is ''adopted.''

More instructive is the sentence from the House report that states with regard to the underlying purpose of section 325(o)(1): ''This serves to maintain a climate of relative stability with respect to future planning by all interested parties * * *'' This suggests, as noted above, that section 325(o)(1) was specifically expected, at least in the view of the House Committee, to act harmoniously with the other provisions of EPCA discussed above in facilitating regulatory certainty. The latter purpose is better accomplished by construing the provision to become applicable at a point well before the compliance date.

On the other hand, the reliance interests at stake also are not best served in the long run by taking the opposite course and adopting the view that section 325(o)(1) becomes applicable at the earliest possible moment. Let us imagine, for example, that DOE were routinely to make final rules containing standards potentially subject to section 325(o)(1) effective as soon as possible after publication. This would likely result in its making such rules effective

30 days after publication.[2] DOE also could refuse to reconsider any aspect of such a rule relevant to the standard (unless it could complete its consideration and correct any errors within that 30-day time period), no matter how serious or legitimate a question might be raised, since to do so effectively, it would have to prevent the standard from going into effect.

This approach, however, would not be the best way for DOE to promote regulatory certainty either. It is common for agencies to entertain petitions for reconsideration at least for a short period after issuance of a final rule as well as to correct errors on their own motion during that time. Moreover, there is good reason why agencies follow this course, since otherwise such errors would have to await the completion of judicial review before they could be corrected, thereby creating substantial delay and uncertainty. Accordingly, this approach too, in addition to running counter to ordinary administrative practices that there is no reason to believe section 325(o)(1) was intended to abrogate, is not the best way to advance the regulatory stability sought by section 325(o)(1) and the other related EPCA provisions discussed above.

This approach also would create unnecessary tension between section 325(o)(1) and the Congressional Review Act (CRA) (5 U.S.C. 801–804) enacted in 1996. Under CRA, before a final rule can become ''effective,'' DOE must send a report to Congress (5 U.S.C. 801(a)(1)(A) and (B)). With respect to a ''major rule'' within the meaning of 5 U.S.C. 804(2), CRA provides for the passing of a 60-calendar-day-lie-before-the-Congress period, after submission of the agency report, at the end of which a final rule could become effective in the absence of a Congressional resolution of disapproval (5 U.S.C. 801(a)(3)). CRA allows for an exception to the 60-day-lie-before requirement only if the President determines that a major rule should take effect before the end of that period because of an imminent health or safety threat or other emergency; because it is necessary to the enforcement of criminal laws or national security; or if it is issued pursuant to a statute implementing an international trade agreement (5 U.S.C. 801(c)).

In DOE's view, this last set of considerations also points the way to the answer to the question of at what time amendments to an energy-efficiency-setting-standard should best be viewed as having set ''minimum required energy efficiency'' benchmarks. For the reasons explained at the beginning of this section, that time must be after the final rule making the amendments to the standard is in effect. But, consistent with the objective of section 325(o)(1) and the other closely related EPCA provisions of promoting regulatory certainty, and to harmonize section 325(o)(1) with common administrative practice and the CRA, such final rules should ordinarily be made effective only after a reasonable hiatus after the date of publication has elapsed, allowing for prompt use of ordinary administrative error correction procedures and completion of congressional review under CRA. This is the earliest that manufacturer planning in reliance on a final major rule to amend appliance energy conservation standards can realistically be expected to begin. The certainty of the regulatory regime sought to be achieved therefore cannot occur until that time.

Accordingly, DOE believes it should construe section 325(o)(1) as applying to standards designed to set ''minimum required energy efficiency'' benchmarks at the point in time a final rule containing such a standard becomes effective. It also believes, however, that it should take care to select effective dates for final rules containing such standards that are consistent with the CRA and any other applicable law. This approach will best promote the regulatory certainty sought by section 325(o)(1) and its companion provisions and also comports well with the ordinary understanding of when a rule containing such standards has established ''require[ments].''

We note that DOE's own past practice on the selection of such effective dates has not been consistent with this approach. But it also has not been internally consistent even very recently, potentially creating wide variations regarding when section 325(o)(1) would become applicable as well as running afoul of the various considerations outlined above.

Typically, DOE has not made amendments to EPCA standards contained in final rules effective until the date on which manufacturers have had to comply with them. See 10 CFR 430.32. That is the approach we followed even very recently in the case of the rules setting out the amendments to standards for water heaters (66 FR 4474, 4497, Jan. 17, 2001, effective Jan. 20, 2004) and clothes washers (66 FR 3314, 3331, Jan. 12, 2001, effective Jan. 1, 2004). We departed from that practice in the case of the central air conditioner rule at issue here. We did so, however, not because we had considered the potential ramifications of our prior approach and of the approach we were taking to this rule for purposes of the applicability of section 325(o)(1), but rather in an effort to follow the current guidance of the Office of the Federal Register, which distinguishes between the date on which a final rule is effective for purposes of modifying the Code of Federal Regulations and the date on which a final rule is effective for purposes of requiring compliance with its requirements. *See* National Archives and Records Administration, Office of the Federal Register, *Document Drafting Handbook,* Chapter 2, p. 2–12 (October 1998). Consistent with the recent guidance in the *Document Drafting Handbook,* but without taking into account either the CRA or potential section 325(o)(1) ramifications, DOE specified a 30-day-after-publication effective date consistent with the APA and a compliance date of January 23, 2006, consistent with EPCA.

Having now considered these issues more carefully, DOE believes it should adopt the approach outlined above which is specifically designed to accomplish the relevant EPCA policy objectives. Accordingly, it proposes to adopt a series of amendments to the EPCA rules intended to address these general issues. First, it proposes to define by rule the terms ''maximum allowable energy use'' and ''minimum required energy efficiency'' as energy conservation standards established by a final rule that has become effective in the sense that it has modified the Code of Federal Regulations. It further proposes to include in its definition that to qualify, the final rule has to have made that modification on a date selected consistent with the CRA and other applicable law. Finally, in order to avoid confusion, it proposes a technical amendment adding a definition of the EPCA term ''effective date,'' which EPCA, inconsistently with the Office of Federal Register guidance, treats as synonymous with ''compliance date.''

To that end, DOE proposes to add a new § 430.34 which tracks the language of section 325(o)(1). It also proposes to add to the definitions section, § 430.2, new definitions for ''maximum allowable energy use'' and ''minimum required energy efficiency.'' These definitions would treat amendments to a standard contained in a final rule as establishing ''maximum allowable energy use'' and ''minimum required energy efficiency'' benchmarks for purposes of section 325(o)(1) on the date such a rule made those amendments effective as to the Code of Federal

[2] Under the APA in most cases it could not make them effective before them.

Regulations, provided that DOE sets out in the **EFFECTIVE DATE** line of a notice of final rulemaking under section 325 a date on which the Code of Federal Regulations will be modified that is selected consistent with the CRA and any other applicable law. In most instances, the date selected will be 60 to 80 days after the date of publication.

Consistent with the proposed definitions to be added to § 430.34, DOE intends to make the final rule based on today's proposal effective 75 days from the date of publication.

Finally, to make the technical change referenced above, DOE proposes also to add to § 430.2 a definition of the term ''effective date'' as used in EPCA and 10 CFR 430.32. This definition clarifies that for purposes of construing the term under EPCA (but not for purposes of determining the point at which amendments to a standard qualify for protection under section 325(o)(1)), the ''effective date'' is the date on which an amended energy conservation standard becomes enforceable.

III. Proposal To Withdraw Final Rule

In this portion of the **SUPPLEMENTARY INFORMATION**, DOE sets forth its conclusions with regard to the legal and policy issues that DOE considered in deciding whether to propose withdrawal of the January 22, 2001 final rule. Included among these issues are certain issues raised by ARI in its petition for reconsideration.

A. Legal Issues

1. Failure To Obtain the Views of the Department of Justice on the Potential Anti-Competitive Impact of 13 SEER Standards

In its petition, ARI contends that DOE should have invited the Department of Justice to submit a supplemental statement of its views on the potential anti-competitive impact of DOE's final rule establishing a 13 SEER standard for central air conditioners and heat pumps (ARI Petition Discussion, paragraph d). Although EPCA does not provide that DOE must seek supplemental determinations from the Department of Justice on final rules, DOE concludes, for reasons set forth below, that it should have requested supplemental views from the Department of Justice on the effect of a uniform 13 SEER standard on competition, particularly on the question of potential consolidation in the central air conditioning and heat pump industry.

Section 325(o)(2)(B)(i) of EPCA requires DOE to determine whether the benefits of a new or amended energy conservation standard exceed its burdens by considering ''to the greatest extent practicable'' seven factors, including: ''(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard'' (42 U.S.C. 6295(o)(2)(B)(i)). Section 325(o) also provides that:

> For purposes of clause (i)(V), the Attorney General shall make a determination of the impact, if any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending an energy conservation standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the **Federal Register**.

42 U.S.C. 6295(o)(2)(B)(ii).

In context, it is clear that the term ''the standard'' in section 325(o)(2)(B)(i) refers to any new or amended energy conservation standard prescribed by DOE under section 325(o) of EPCA. Because the Department of Justice must transmit its determination to DOE within 60 days after the publication of a proposed rule, EPCA contemplates that the Department of Justice's determination on the anti-competitive effects of a proposed rule will enable DOE to fulfill its substantive obligation to consider the Department's expert opinion on the anti-competitive impact of a final standard.

DOE submitted the October 5, 2000 NOPR to the Attorney General for review pursuant to the foregoing provisions. The NOPR described the range of potential trial standards considered by DOE, and proposed adoption of Trial Standard Level 3, *i.e.,* a minimum SEER of 12 for central air conditioner product classes and a SEER of 13 for central air conditioning heat pumps, with a corresponding HSPF of 7.7. The Department of Justice, consistent with its past practice, confined its response to the proposed standards, corresponding to Trial Standard Level 3.

The Department of Justice conveyed to DOE three concerns about the proposed rule's potential impact on competition (*see* December 4, 2000, letter in the Appendix to this notice). First, the Department of Justice was concerned the proposed rule would have a disproportionate impact on small manufacturers. Second, it was concerned that the proposed standard for heat pumps, and in some instances the standard for air conditioners, would have an adverse impact on some manufacturers of equipment to be used to retrofit existing housing and used in manufactured housing. Third, it was concerned that the proposed 13 SEER for central air conditioning heat pumps could cause consumers to shift from heat pumps to other systems that include resistance heat systems, reducing the competition that presently exists between manufacturers of air conditioning heat pumps and manufacturers of those other heating systems. The Department of Justice urged DOE to take these concerns into account and consider ''setting a lower SEER standard for heat pumps, such as the standard included in Trial Standard Level 2, and a lower SEER standard for air conditioners for retrofit markets where there are space constraints and for manufactured housing.'' 66 FR 7200.

DOE published a final rule on January 22, 2001 adopting standards that corresponded to Trial Standard Level 4 (the next higher level) and prescribed a minimum SEER of 13 for all the product classes, except for niche products, with a corresponding 7.7 HSPF. The preamble to the final rule addressed the Department of Justice's specific concerns about the October 5 proposed rule (66 FR 7192–93). It also addressed the potential anti-competitive impact of the final rule's uniform 13 SEER standard, in general terms:

> We recognize that the standard levels we are adopting could accelerate the consolidation trend among major manufacturers. However, as discussed in the manufacturer impact analysis, we do not expect that any manufacturer or group of manufacturers will be able to use the standards as an opportunity to consolidate their market power. (*See* TSD, Chapter 8). Therefore, we believe that competition will remain vigorous under the adopted standard, and any lessening of competition that does occur will not result in price increases or loss of choice and utility for consumers.

66 FR 7176. The TSD referenced chapter also concluded that, under Trial Standard Level 4, several major companies would likely consider selling their production assets rather than make the investment required to meet the new standard or face the loss of profits caused by the absence of premium products in the marketplace (*see,* TSD 8.7.4, p. 8–64).

Thus, DOE simply relied on the manufacturer impact analysis in the TSD to support its conclusion with respect to the potential impact on competition of the final rule's Trial Standard Level 4 (13 SEER) standards. DOE did not have the benefit of the Department of Justice's views on the potential anti-competitive impact of the

final 13 SEER standards for both air conditioners and heat pumps.

As the TSD shows, the central issue regarding the January 22 final rule is the potential effect of 13 SEER standards on consolidation in the central air conditioning and heat pump industry. DOE adverted to this in the preamble to the final rule with the statement ''that the standard levels we are adopting could accelerate the consolidation trend among major manufacturers.'' 66 FR 7176. Arguably, to comply with section 325(o)(2)(B)(i), DOE should have requested supplemental views from the Department of Justice on this issue.

2. Failure of the Statement of Basis for the Final Rule to Adequately Address Cumulative Regulatory Burdens on Manufacturers

To determine whether a standard is economically justified, DOE must assess the economic impact of the standard on the manufacturers and consumers of the products subject to such standard (42 U.S.C. 6295(o)(2)(B)(i)(I)). One aspect of manufacturer burden is the cumulative impact of multiple DOE standards and the regulatory actions of other Federal agencies and States that affect the manufacture of a covered product.

In its petition for reconsideration, ARI criticized DOE for not discussing information in the TSD on the cumulative regulatory burden on the central air conditioning and heat pump industry (ARI Petition Discussion, paragraph m). The preamble to the final rule addressed the issue of cumulative regulatory burden in conclusory terms in two brief sentences, as follows: ''The Department has considered the manufacturer burdens as described in the manufacturer impact analysis of the TSD in adopting the new standard. These include cumulative burdens.'' 66 FR 7174. The statement of basis and purpose required by the APA (5 U.S.C. 553(c)) to accompany a final rule must establish a rational connection between the facts the agency found and the choices it made. In light of the evidence of cumulative regulatory burdens on manufacturers documented in the TSD, it is doubtful whether the mere assertion by DOE that it considered the cumulative burdens on manufacturers is adequate to establish a rational basis for DOE's determination on manufacturer impact resulting from a 13 SEER standard.

DOE's discussion and conclusions regarding the weight that should be given to cumulative regulatory burden in this rulemaking are set forth in the ''Policy Issues'' discussion immediately following this section, and in the preamble to today's proposed rule (*see* Section V.B.2. of this **SUPPLEMENTARY INFORMATION**).

B. Policy Issues

DOE reviewed the basis and rationale for the January 22, 2001 final rule pursuant to the President's Regulatory Review Plan, and it considered carefully numerous claims by ARI of error or insufficiency in DOE's analyses and its weighing of the benefits and burdens of the final rule. As a result of this review, DOE has decided to accord more weight to certain factors, and those changes, which reflect the current Administration's policies, support DOE's decisions to propose withdrawal of the January 22 final rule and to publish today's proposed rule.

1. Burdens on Consumers

During its review of the January 22 final rule, DOE reassessed its weighing of burdens and benefits of the standards, giving particular attention to the question of whether burdens on consumers received adequate consideration and weight.

DOE currently is particularly concerned that new standards be designed to distribute their burdens and benefits as fairly as practical. Although some disparity is expected in any national standard, the disparity in impacts between low-income and typical consumers is of more concern at more stringent efficiency standards because increases in first cost are felt more sharply by lower income consumers. The potential disparities would be diminished under the 12 SEER standard that DOE is proposing today.

DOE also has considered that the fraction of consumers who are negatively impacted by a 13 SEER standard, in terms of life-cycle cost savings versus the existing standards, is substantially higher than the fraction who are negatively impacted in other recent DOE efficiency rules. To illustrate, the efficiency standard for clothes washers, published in the **Federal Register** on January 12, 2001 (66 FR 3314), will negatively impact 19 percent of all consumers and 19 percent of low income consumers, and the efficiency standard for gas-fired residential water heaters, published in the **Federal Register** on January 17, 2001 (66 FR 4474), will result in negative life-cycle cost impacts for 12 percent of all consumers.[3] By contrast, under a 13 SEER standard for split air conditioners, 39 percent and 50 percent of average and low income consumers, respectively, would be negatively impacted. A 12 SEER standard would result in a lower fraction of consumers who are negatively impacted: 25 percent and 34 percent of average and low income consumers, respectively.

In summary, DOE has decided that, in issuing the January 22 final rule, inadequate discussion and weight was given to the fraction of all and low income consumers who incur negative life-cycle cost impacts as a result of the new standard.

2. Burdens on Manufacturers

a. Cumulative Regulatory Burden. In the preceding section, DOE concluded that the statement of basis and purpose for the January 22 final rule did not adequately address the issue of cumulative regulatory burden, which DOE recognizes is a key component of the assessment of manufacturer impact (*see* Process Improvement Rule, section 10(g), codified at 10 CFR Part 430, Subpart C, Appendix A). DOE's decision to propose withdrawal of the January 22 final rule is based in part on DOE's current view that the preamble to the final rule contained insufficient discussion of cumulative regulatory burdens and gave insufficient weight to cumulative regulatory burdens.

As mentioned by ARI, DOE did have information, which was included in the TSD, of cumulative regulatory burdens. The TSD for the final rule shows that the most significant regulation facing the central air conditioning industry is the Environmental Protection Agency's (EPA's) ban on new equipment utilizing a particular hydrofluorocarbon (HCFC), HCFC–22, as a refrigerant, scheduled to take effect in January 2010. In addition, an EPA ban on use of HCFC–141b as a foam blowing agent (used in water heaters, refrigerators and freezers) takes effect on January 1, 2003. The TSD reports that companies must develop a wealth of new knowledge and experience to replace the refrigerant HCFC–22, and it estimates the cost of converting equipment to a substitute refrigerant to be on the order of $50 million per company. Additional regulatory burdens on manufacturers of residential central air conditioner and heat pump products are new DOE efficiency standards for refrigerators and freezers (effective July 1, 2001) and

[3] For split air conditions and gas water heaters, the fraction provided represents those consumers who incur an increase in life-cycle costs that exceeds 2 percent of the total life-cycle cost, with low-income data available only for split air conditioners. For clothes washers, the fraction represents those consumers who incur any life-cycle cost increase at all. For direct comparison with clothes washers, the fraction of all consumers incurring any increase in life-cycle costs for gas water heaters in 22 percent and for split air conditioners is 55 percent.

water heaters (effective January 20, 2004); a Consumer Product Safety Commission voluntary standard for flammable vapor ignitions on water heaters (under development); and EPA standards under section 112(d) of the Clean Air Act on emissions of hazardous air pollutants from the coating of large appliances (expected to apply in 2004). While acknowledging that the uncertainty surrounding DOE's estimates is high, the TSD estimates the total investment required by manufacturers of central air conditioner and heat pumps to meet these cumulative regulatory burdens will exceed $479 million. This estimate excludes the cost of manufacturer compliance with DOE's amended efficiency standard for air conditioners and heat pumps, which the TSD estimates is comparable the cost of the HCFC–22 phase-out (TSD, Section 8.6.).

b. *Financial Burdens Associated with New Standards.* The TSD demonstrated that the more stringent 13 SEER standards adopted in the January 22 final rule would likely cause the industry's net cash flow to drop below zero (Section 8.4.6). It also noted that one segment of the industry (denominated ''lower operating cost manufacturers'' in the analysis) would likely benefit from more stringent standards, and that another segment of the industry (denominated ''higher operating cost manufacturers'') would bear nearly the total financial burden (Section 8.5). According to the TSD, the potential outcomes of these impacts could include accelerated consolidation and stifling of innovation. As a matter of policy, DOE considers these outcomes to be potentially serious, and certainly material, consequences that should be discussed when adopting new standards. DOE is proposing to withdraw the January 22 final rule, in part, to give greater weight to the negative cash flow and maldistribution of burdens on industry of 13 SEER standards. DOE explicitly addresses these issues in the preamble to today's proposed rule in Section V.B.2. of this **SUPPLEMENTARY INFORMATION.**

IV. Proposed Rule

A. Background

1. Statutory Authority

Part B of Title III of the Energy Policy and Conservation Act provides for the Energy Conservation Program for Consumer Products other than Automobiles (42 U.S.C. 6291 *et seq.*). The consumer products subject to this program (often referred to hereafter as ''covered products'') include central air conditioners and heat pumps. Under the Act, the program consists essentially of three parts: testing, labeling, and Federal energy conservation standards.

As discussed in the Introduction in Section I of this **SUPPLEMENTARY INFORMATION**, NAECA prescribed initial Federal energy conservation standards for central air conditioners and heat pumps (42 U.S.C. 6295(d)). NAECA further amended EPCA by specifying that DOE is to review and publish amended standards by January 1, 1994 (42 U.S.C. 6295(d)(3)(A)). Under EPCA, any new or amended standard must be designed so as to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)).

Section 325(o)(2)(B)(i) provides that before DOE determines whether a standard is economically justified, it must first solicit comments on a proposed standard (42 U.S.C. 6295(o)(2)(B)(i)). That section further provides that, after reviewing the comments, DOE must determine whether the benefits of the standard exceed its burdens, based, to the greatest extent practicable, on a weighing of the following seven factors:

(i) The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

(ii) The savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

(iii) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(iv) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(v) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(vi) The need for national energy conservation; and

(vii) Other factors the Secretary considers relevant.

In addition, section 325(o)(2)(B)(iii) establishes a rebuttable presumption of economic justification in instances where the Secretary determines that ''the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy * * * savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure * * *.'' (42 U.S.C. 6295(o)(2)(B)(iii)). The rebuttable presumption test is an alternative path to establishing economic justification.

2. Rulemaking History

The existing standards for residential central air conditioners and heat pumps have been in effect since 1992. As described in the Introduction to this **SUPPLEMENTARY INFORMATION**, the efficiency descriptor for air conditioner and heat pump cooling efficiency is SEER (or Seasonal Energy Efficiency Ratio), and the descriptor for heat pump heating efficiency is HSPF (or Heating Seasonal Performance Factor). SEER is DOE's measure of energy efficiency for the seasonal cooling performance of central air conditioners and heat pumps. HSPF is DOE's measure of energy efficiency for the seasonal heating performance of heat pumps. The current central air conditioner and heat pump efficiency standards are as follows:

—Split system air conditioners and heat pumps—10 SEER/6.8 HSPF
—Single package air conditioners and heat pumps—9.7 SEER/6.6 HSPF

On September 8, 1993, DOE published an Advance Notice of Proposed Rulemaking (ANOPR) announcing DOE's intention to revise the existing central air conditioner and heat pump efficiency standard. 58 FR 47326. During a workshop on June 30, 1998, DOE presented for comment an analytical framework for the central air conditioner and heat pump standards rulemaking. The analytical framework described the different analyses to be conducted, the methods for conducting them, the use of new spreadsheets, and the relationship of the various analyses. On November 24, 1999, DOE published a Supplemental ANOPR and invited additional comment on issues raised following publication of the original ANOPR. 64 FR 66306.

On October 5, 2000, DOE published a notice of proposed rulemaking (October 5, 2000, NOPR). 65 FR 59590. The energy efficiency standards that DOE proposed for residential central air conditioners and central air conditioning heat pumps (heat pumps) were as follows:

—Split-system and single-package air conditioners—12 SEER
—Split-system and single package heat pumps—13 SEER/7.7 HSPF
—Through-the-wall air conditioners and heat pumps—11 SEER/7.1 HSPF.

In addition to the increase proposed in SEER and HSPF, DOE requested comments on a proposal to adopt a

standard for steady-state cooling efficiency, denominated EER (or Energy Efficiency Ratio).[4] The proposal of an EER was designed to ensure more efficient operation at high outdoor temperature, during periods when electricity use by air conditioners is at its peak. A public hearing was held in Washington, D.C. on November 16, 2000 to hear oral views, data and arguments on the proposed rule.

As explained in the Introduction to this **SUPPLEMENTARY INFORMATION**, DOE published a final rule on January 22, 2001 that would have required a SEER of 13 for product classes covered by the rule with a corresponding HSPF of 7.7 for heat pumps. Subsequent events, including notices delaying the final rule's effective date pursuant to the President's Regulatory Review Plan, petitions for judicial review, and ARI's petition for reconsideration of the final rule, are also discussed in the Introduction.

B. Overview of the Proposed Standards

DOE, through today's proposed rule, would amend the almost ten-year old minimum efficiency standards for new central air conditioners and heat pumps. These amended standards would take into account a decade of technological advancements and would save consumers and the nation money, significant amounts of energy, and have substantial environmental and economic benefits.

If today's proposed standards go into effect, they would essentially raise the energy efficiency standards to 12 SEER for new central air conditioners and to12 SEER/7.4 HSPF for new central air conditioning heat pumps. In its petition for reconsideration, ARI argued that if a 12 SEER standard is adopted for central air conditioning heat pumps, the HSPF should be no higher than 7.3 (Petition Discussion, paragraph n). ARI, and other persons who commented on the October 5 proposed rule, urged DOE to revise the HSPF levels to reflect differences among the SEER–HSPF relationships across equipment of varying capacity ratings. As DOE explained in the preamble to the January 22, 2001 final rule, DOE established the SEER–HSPF parings in order to maintain the offset between the minimum SEER and the minimum HSPF in the current standards. Because heating energy is a large fraction of total heat pump energy consumption, DOE stated it would not relax the HSPF level in the absence of sound evidence regarding the burdens that would be mitigated (66 FR 7184). DOE continues to think an HSPF of 7.4 is the appropriate level for 12 SEER. Data discussed in the TSD (Section 4.6.2.1) show that most models of equipment below 3-tons meet or exceed an HSPF of 7.4, and almost a third of models available below 20,000 BTU/hr. meet or exceed an HSPF of 7.4.

The proposed standards would apply to products manufactured for sale in the United States, as of July 25, 2006. The proposed standard for split-system air conditioners, the most common type of residential air conditioning equipment, represents a 20 percent improvement in energy efficiency. For split-system heat pumps, the new standard would represent a 20 percent improvement in cooling efficiency and a 9 percent improvement in heating efficiency. The standard would also increase the cooling efficiency of single-package air conditioners and single-package heat pumps by 24 percent and the heating efficiency of single-package heat pumps by 12 percent. Finally, DOE is proposing to adopt new standards for some products to ensure that more efficient versions remain available for certain niche applications. DOE proposes to determine that the new standards are the highest efficiency levels that are technologically feasible and economically justified as required by law. Several aspects of today's proposed standards warrant highlighting here, as follows:

1. Central Air Conditioner and Heat Pump Features

The proposed efficiency levels can be met by central air conditioner and heat pump designs that are already available in the market. DOE fully expects variations of these models to exist under the new standards, offering all the features and utility that are found in currently available products.

2. Consumer Benefits

Table 1 summarizes the ''characteristics'' of today's typical central air conditioners and heat pumps. Table 2 presents the implications for the average consumer of the standards becoming effective in 2006.

TABLE 1.—CHARACTERISTICS OF TODAY'S TYPICAL CENTRAL AIR CONDITIONERS AND HEAT PUMPS [1]

	Split system air conditioner	Split system heat pump	Single package air conditioner	Single package heat pump
Average Installed Price	$2,236	$3,668	$2,607	$3,599.
Annual Utility Bill [2]	$189	$453	$189	$453.
Life Expectancy	18.4 years	18.4 years	18.4 years	18.4 years.
Energy Consumption per year	2,305 kWh	6,549 kWh	2,305 kWh	6,549 kWh.

[1] ''Typical'' equipment have cooling and heating efficiencies of 10 SEER and 6.8 HSPF, respectively.
[2] Utility bill pertains to the energy cost of operating the air conditioner or heat pump.

TABLE 2.—IMPLICATIONS OF NEW STANDARDS FOR THE AVERAGE CONSUMER

	Split system air conditioner	Split system heat pump	Single package air conditioner	Single package heat pump
Year Standard Comes into Effect	2006	2006	2006	2006.
New Average Installed Price	$2,449	$3,812	$2,765	$3,748.
Estimated Price Increase	$213	$144	$158	$149.
Annual Utility Bill Savings	$31	$50	$31	$50.
Average Net Saving over Equipment Life	$113	$365	$163	$421.
Energy Savings per Year	384 kWh	768 kWh	384 kWh	768 kWh.

[4] EER is a steady-state measure of energy efficiency which measures efficiency at a prescribed outdoor temperature (95° F), and is one of the test conditions in DOE's test procedure used to develop the SEER.

The most typical air conditioner (*i.e.*, split system air conditioner whichcomprises approximately 65 percent of today's central air conditioning and heat pump market) has an installed price of $2,236 and an annual utility costs of $189. In order to meet the 2006 proposed standard, DOE estimates that the installed price of a typical air conditioner would be $2,449, an increase of $213.[5] This price increase would be offset by an annual energy savings of about $31 on the utility bills. The most typical heat pump (*i.e.*, split system heat pump) currently has an installed price of $3,668 and annual utility costs of $453. In order to meet the 2006 proposed standard, DOE estimates that the installed price of a typical heat pump would be $3,812, an increase of $144.[6] This price increase would be offset by an annual energy savings of about $50 on the utility bills.

DOE recognizes that most consumers pay energy prices that are higher or lower than the ''typical'' consumer and operate their equipment more or less often. Consequently, DOE has investigated the effects of the different energy prices across the nation and different air-conditioning usage patterns. DOE estimates that 75 percent of all consumers purchasing a new typical air conditioner would either save money or would be negligibly impacted as a result of the 2006 proposed standard.[7] In the case of a new typical heat pump, all consumers either would save money or be negligibly impacted.[8]

DOE also investigated how these standards might affect low income consumers. On average, DOE estimates that it is likely that low income air conditioner and heat pump consumers would also save money over the life of the equipment as a result of the standard.

3. National Benefits

The proposed standards would provide benefits to the nation. DOE estimates the standards would save approximately 3 quads of energy over 25 years (2006 through 2030). This is equivalent to all the energy consumed by nearly 17 million American households in a single year. In 2020, the proposed standards would avoid the construction of three 400 megawatt coal-fired plants and twenty-seven 400 megawatt gas-fired plants. These energy savings would result in cumulative greenhouse gas emission reductions of approximately 24 million metric tons (Mt) of carbon, or an amount equal to that produced by approximately 2 million cars every year. Additionally, air pollution would be reduced by the elimination of approximately 70 thousand metric tons of nitrous oxides (NO_X) from 2006 through 2030. In total, DOE estimates this proposed standard would have a net benefit to the nation's consumers of $2 billion over the period 2006 through 2030.[9]

C. Technological Feasibility

There are central air conditioners and heat pumps in the market at the efficiency levels that would be prescribed by today's proposed rule. DOE, therefore, believes all of the proposed efficiency levels are technologically feasible.

Pursuant to section 325(p)(2) of EPCA, and as discussed in the October 5, 2000 NOPR, DOE determined that 18 SEER is the maximum technologically feasible level (Max Tech Level) for cooling efficiency for all product classes and capacities covered by this rulemaking. 65 FR 59593. The Max Tech Level for heating efficiency is 9.4 HSPF, which is the highest HSPF rating currently available in residential heat pumps.

D. General Discussion of Economic Justification Factors

As noted earlier, section 325(o)(2)(B)(i) of EPCA requires DOE to consider seven factors in determining whether a conservation standard is economically justified.

1. Economic Impact on Manufacturers and Consumers

DOE considered the economic impact on manufacturers and consumers as discussed in the October 5, 2000, NOPR (65 FR 59590, 59593) and the January 22, 2001 final rule (66 FR 7174–78, 7185–7191). As explained in Section III and Section V.B. of this **SUPPLEMENTARY INFORMATION**, today's proposal is based in part on changes in emphasis or weight that DOE, as a result of its reconsideration of the rulemaking record, now gives to certain aspects of its analysis of manufacturer and consumer impact.

2. Life-Cycle costs and Rebuttable Presumption

DOE considered life-cycle costs (LCC), as discussed in the January 22, 2001 final rule. 66 FR 7173, 7175, 7187–90. DOE calculated the installed price and operation and maintenance costs for a range of consumers around the nation to estimate the range in life-cycle cost benefits that consumers would expect to achieve due to new standards. DOE has made no change in its assumptions and analysis of life-cycle costs in proposing today's rule.

As previously mentioned, NAECA established new criteria for determining whether a standard level is economically justified. Section 325(o)(2)(B)(iii) of EPCA provides that if, according to the applicable test procedure, the increase in initial price of an appliance due to a conservation standard would repay itself to the consumer in energy savings in less than three years, then DOE is to presume that such standard is economically justified. This presumption of economic justification can be rebutted upon a proper showing.

Using the reverse engineering manufacturing costs, the standards DOE proposes today for split heat pumps and packaged heat pumps can be shown to have satisfied the rebuttable presumption requirements in section 325(o)(2)(B)(iii). To avoid confusion, DOE points out that the statute requires DOE to use ''the applicable test procedure'' to calculate the payback periods for purposes of the rebuttable presumption. As explained in the October 5, 2000 NOPR, the annual cooling and heating energy consumption calculations based on DOE's test procedure are significantly greater than the weighted-average values from DOE's life-cycle cost analyses based on the 1997 Residential Energy Consumption Survey, used in other DOE analyses, including evaluation of consumer impacts. 65 FR 59596. For this reason, the payback periods presented in Section V of this portion of the preamble, entitled ''Analytical Results and Conclusions,'' are significantly longer than those calculated to determine whether the rebuttable presumption applies to these products.

While the analysis requires DOE to presume that the standards adopted for split system and single package heat pumps are economically justified, it shows that split system air conditioners and single package air conditioners do not meet the standard for use of the rebuttable presumption of economic justification. Therefore, DOE does not

[5] Based on estimates supplied by the industry trade association, the Air-Conditioning and Refrigeration Institute (ARI), the installed price is estimated to be $2,510, an increase of $274.

[6] Based on estimates supplied by ARI, the installed price is estimated to be $3,933, an increase of $265.

[7] Based on estimates supplied by ARI, 61 percent of all consumers purchasing a new typical air conditioner will either save money or will be negligibly impacted as a result of the 2006 standard.

[8] Based on estimates supplied by ARI, 97 percent of all consumers purchasing a new typical heat pump will either save money or will be negligibly impacted as a result of the 2006 standard.

[9] Net benefit assumes NAECA efficiency scenario. Net benefit would be $3 billion for Roll-up efficiency scenario.

presume them to be economically justified. If the rebuttable presumption does not apply, DOE must perform additional analysis to determine economic justification. DOE has performed an analysis for all classes of central air conditioner and heat pump products that shows the standards proposed today are indeed economically justified.

3. Energy Savings

EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from revised standards. DOE forecasted energy savings through the use of a national energy savings (NES) spreadsheet, as discussed in the October 5, 2000 NOPR. 65 FR 59590, 59593. DOE relies on the same spreadsheets and assumptions for its estimate of the NES that would result from implementation of today's proposed standards.

As discussed in the October 5, 2000 NOPR, section 325(o)(3)(B) of EPCA prohibits DOE from adopting a standard for a product if that standard would not result in ''significant'' energy savings. The energy savings for the standard levels DOE is proposing today are non-trivial—indeed they are substantial—and therefore we consider them ''significant'' within the meaning of section 325 of the Act.

4. Lessening of Utility or Performance of Products

This factor cannot be quantified. In establishing classes of products, DOE has attempted to eliminate any degradation of utility or performance in the products covered by today's proposed rule. Attributes that affect utility include the product's ability to cool and dehumidify. In some applications, noise levels may also be an aspect of utility. Product size or configuration can also be considered utility if a change in size would cause the consumer to install the product in a location or in a manner inconsistent with the consumer's preferences.

5. Impact of Lessening of Competition

This economic justification factor has two aspects: on the one hand, it assumes that there could be some lessening of competition as a result of standards; on the other hand, it directs the Attorney General to gauge the impact, if any, of that effect.

In order to assist the Attorney General in making such a determination, DOE provided the Attorney General with copies of the October 5, 2000, NOPR and the TSD for review. The Attorney General's determination, in a letter dated December 4, 2000, was discussed in the preamble to the January 22 final rule. 66 FR 7176, 7199–200. The Attorney General's December 4, 2000, determination is included in the Appendix to this Supplemental Notice of Proposed Rulemaking.

Pursuant to the President's Regulatory Review Plan, DOE invited the Attorney General to submit supplemental views on the January 22 final rule. The Department of Justice, in a letter dated April 5, 2001, provided brief written comments as to whether the final rule effectively removed their concerns regarding possible lessening of competition that could result from the October 5 proposed standards. The Department of Justice's April 5, 2001, letter is also included in the Appendix to this notice.

The Department of Justice concluded that the 13 SEER standards for heat pumps and air conditioners in the January 22 final rule still presented anti-competitive concerns. More specifically, the Department of Justice concluded that while the final rule's exclusion of niche products might alleviate competitive problems for manufacturers of those products, the Department of Justice remained concerned about the impact of the final rule on manufacturers of standard equipment who could not make 13 SEER equipment that would fit into space-constrained sites. The Department of Justice also concluded the final rule would have a disproportionate impact on smaller manufacturers of heat pumps. Finally, the Department of Justice was of the view that the 13 SEER standard for air conditioners presents the same kinds of anti-competitive problems as the 13 SEER standard for heat pumps, and urged DOE to adopt a 12 SEER standard for all products covered by the rule.

As explained in Section III. of this **SUPPLEMENTARY INFORMATION**, DOE's decision today to propose a 12 SEER standard for most central air conditioners, with a corresponding 7.4 HSPF for central air conditioning heat pumps, is based primarily on its re-weighting of the burdens and benefits to manufacturers and consumers, rather than on the Department of Justice's views regarding the anti-competitive effect of the January 22 final rule. The Department of Justice's April 5 letter raises questions about the January 22 final rule's treatment of space-constrained or niche products, but those questions do not require resolution given DOE's decision to propose a 12 SEER standard for all product classes except the through-the-wall product classes that DOE proposes today.

DOE will submit this proposed rule to the Department of Justice for comment. DOE also invites the public to submit views and information regarding the potential anti-competitive impact of today's proposed rule.

6. Need of the Nation To Conserve Energy

DOE recognizes that energy conservation benefits the nation in several important ways. Enhanced energy efficiency improves the nation's energy security, strengthens the economy, and reduces the environmental impacts of energy production. As part of the analysis supporting today's proposed rule, DOE estimated energy savings and the national consumer benefits and estimated reduction in emissions of pollutants and greenhouse gases resulting from those energy savings. See the October 5, 2000 NOPR for a discussion of how these standards affect energy savings and those benefits. 65 FR 59622–3. The amount of energy savings ultimately associated with a particular standard level is also affected by the effect of a given standard on competition and consumer cost. Selecting a standard level should take into account manufacturer—and therefore inevitably consumer—costs, in order to encourage robust competition and heightened introduction of newer, more efficient units into the inventory of units available for purchase and use by consumers.

7. Other Factors

Section 325(o) of EPCA allows the Secretary of Energy, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant (42 U.S.C. 6295(o)(2)(B)(i)(VI)). Under this provision, DOE considered the potential improvement to the reliability of the electrical system and health effects caused by foregone air conditioner purchases. These issues are discussed in Sections IV.B.3. above, as well as in the October 5, 2000 NOPR (65 FR 59605) and the January 22 final rule (66 FR 7195). The Utility Impacts Analysis in Chapter 11 of the TSD also provides the technical analysis estimating the effects of adopting new efficiency standards on installed generation capacity.

E. Methodology Used in DOE Analyses

For this proposed rule, the methodologies used to evaluate the seven factors described above are unchanged from those used in the

analyses that DOE relied on for the October 5 proposed rule and the January 22 final rule. DOE's methodology is discussed in the October 5, 2000 NOPR (65 FR 59594–97) and the January 22 final rule (66 FR 7173–74). Additionally, the TSD that accompanies this rulemaking provides a detailed description of every aspect of the various analytical methodologies used.

V. Analytical Results and Conclusions

A. Overview of Analytical Results

1. General

Although DOE has accorded different weight to certain factors in proposing this rule, the underlying analyses, and the results derived from those analyses, are unchanged from those presented in the January 22 final rule except for additional analysis of through-the-wall product classes. Briefly, DOE examined five standard levels. Table 3 presents the trial standards levels analyzed and the corresponding efficiency level for each class of product. Trial Standard Level 5 is the Max Tech Level for each class of product. Trial Standard Level 4 was the one DOE adopted for the standards set forth in the January 22 final rule. Trial Standard Level 2 is the one DOE is now proposing.

TABLE 3.—TRIAL STANDARDS LEVELS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS (SEER)

Trial standard level	Split air conditioners	Packaged air conditioners	Split heat pumps	Packaged heat pumps
1	11	11	11	11
2	12	12	12	12
3	12	12	13	13
4	13	13	13	13
5	18	18	18	18

For each trial standard examined, several different scenarios were analyzed consisting of variations on: (1) Electricity price and housing projections; (2) equipment efficiency distributions; (3) manufacturer cost estimates; and (4) societal discount rate. Electricity price and housing projections were based on three different forecasts from the Energy Information Agency's 2000 Annual Energy Outlook (AEO): (1) Reference Case, (2) High Growth Case, and (3) Low Growth Case. DOE analyzed three efficiency scenarios, each of which assumed a different efficiency distribution after new standards would take effect: (1) NAECA scenario, (2) Roll-up scenario, and (3) Shift scenario. See October 5, 2000, NOPR for an explanation of the three scenarios. 65 FR 59596 (footnotes 10 through 12 and accompanying text). Under the standard levels in today's proposed rule, DOE believes that the NAECA scenario most closely represents the likeliest impact of the new standards, as explained in Chapter 8 of the TSD. DOE analyzed two manufacturer cost scenarios: (1) Based on reverse engineering estimates, and (2) based on ARI-provided mean cost estimates. For the reasons expressed in the preamble to the January 22 final rule, DOE expects manufacturer costs under the proposed standards will lie closer to the estimates produced through DOE's reverse engineering analysis, which lie between ARI's minimum and ARI's mean cost values. 66 FR 7177–78. DOE assumed a societal discount rate of 7 percent for calculating net present value (NPV). However, a 3 percent value was investigated as an alternative scenario in accordance with the Office of Management and Budget's (OMB) *Guidelines to Standardize Measures of Costs and Benefits and the Format of Accounting Statements.*

2. Through-the-Wall Products

In the October 5 proposed rule, DOE proposed to establish a separate product class for through-the-wall (TTW) products with a minimum 11 SEER for air conditioners and 7.1 HSPF for heat pumps, noting that they face particularly acute size constraints that make increasing their efficiency more difficult compared to conventional products, or even other space-constrained products. In comments received responding to the proposed standards, Carrier suggested that such a differential could open a loophole and cause TTW products to be broadly applied in traditionally non-TTW applications. (Carrier #92 at p. 9). National Comfort Products suggested that they did not believe that their product could attain even the proposed 11 SEER standard and that the DOE did not conduct sufficient analysis to support the proposed level. (NCP #77 at p.3, 4). However, Armstrong commented that they did believe their TTW products could attain 11 SEER, although they had concerns about their larger capacity products. (Armstrong #86 at p. 3).

In response to the comments, DOE conducted additional analysis on the cost and technical issues related to TTW products. The analysis is described in detail in Appendix L of the TSD and is summarized here.

DOE performed a design assessment on two split TTW systems and one packaged TTW system. All systems are designed primarily for the replacement market and fit the physical definition of TTW equipment proposed in the October 5 proposed rule. The design assessment sought to identify the cost and efficiency impacts of employing commonly applied techniques to improve efficiency including reduction of air leakage and improvement in airflow, utilizing more efficient compression and fan motors, and increasing heat exchanger surface area. Emerging technologies and modulating technologies were not considered since they are not likely to be applied in conventional baseline equipment.

The cost estimation for the analysis was based on a modified version of the reverse engineering cost models developed as part of this rulemaking for conventional products. The performance impacts of employing various design options were estimated utilizing a spreadsheet model populated with actual performance data and engineering guidelines.

The analysis concluded that utilizing commonly applied technologies and designs, the most constrained TTW split-system analysis could increase its SEER rating from 10.0 SEER to as high as 11.4 SEER, and the packaged system analysis could increase its SEER rating from 9.7 SEER to 10.6 SEER. Employing all improvements would add $106 and $129 to the retail price of the equipment, respectively, comparable to the increases expected in conventional equipment moving to a 12 SEER standard.

To explore the effects that more stringent standards for TTW products would have on consumers, DOE performed a life-cycle cost (LCC) analysis. The LCC analysis for TTW consumers used a subset of consumers identified as living in multi-family

dwellings, which are the predominate application for TTW products.

3. Other Space-Constrained Products

Some products, other than through-the-wall products, face space-constraints. However, as discussed in the October 5 NOPR, DOE proposed to conclude that it is economically justified and technologically feasible for all of those products to comply with the same efficiency requirements as conventional products. Comments received in response to that proposal focused mainly on the 13 SEER heat pump requirement. After reviewing the comments, DOE again proposes to conclude that a 12 SEER requirement is the maximum technologically feasible and economically justified level for all space-constrained products except through-the-wall products. DOE is interested in receiving further comment on this issue.

B. Re-Weighting of Factors

1. Re-Weighting of Burdens on Consumers

The record associated with this rulemaking includes numerous examples of discussions of the distributions, extent, and type of burdens on the typical consumer as well as on low-income consumers. 65 FR 59623–59624 and 66 FR 7189–7190. In the January 22 notice of final rulemaking, DOE determined that most consumers, including low-income consumers, would likely benefit financially over the life of the equipment, but that all consumers would bear higher initial costs, and low-income consumers would not benefit financially as much as would the average consumer. DOE also recognized that the payback periods associated with the January 22 final rule are long, and that many consumers, though not the majority, would never recover the higher first costs in the form of savings in their utility bills. However, the previous Administration concluded that the national energy savings and the slight financial benefit to the typical consumer overrode any negative and maldistributed consumer impacts.

Energy conservation is an important part of the Bush Administration's energy policy, but this Administration is particularly sensitive to burdens, and potential burdens, on consumers. The benefits of the standards adopted in the January 22 final rule would accrue to a much smaller fraction of consumers than is the case for recent standards for other products, particularly low income consumers. Today's proposed rule attempts to mitigate those burdens by reducing the increase in equipment cost compared to the 13 SEER requirements issued on January 22. Overall, the proposed standards would reduce the burdens on consumers while still providing substantial benefit to the nation in the form of energy savings.

2. Re-Weighting of Burdens on Manufacturers

a. *Cumulative Regulatory Burden.* Although DOE included information on the cumulative burden of Federal and State regulations on air conditioner manufacturers in the TSD, DOE did not fully explain how it considered the results of its study in the preamble statement of basis for the January 22 final rule. See discussion in Section III of this **SUPPLEMENTARY INFORMATION.** DOE considers that a proposed standard is not economically justified if it contributes to an unacceptable cumulative regulatory burden. Section III.B.2.a. above provides a summary of the cumulative regulatory burden analysis contained in Section 8.6 of the TSD. DOE concluded that the burden on manufacturers due to all other recent or imminent federal regulations exceeds $479 million. Revising the standard for air conditioner and heat pump efficiency would contribute up to an additional $300 million, bringing the total cumulative regulatory burden to as high as $779 million. In light of that heavy burden, DOE today is proposing standards that would reduce the expected financial burden on manufacturers from all new Federal and State regulations by $144 million compared to the 13 SEER final rule of January 22.

b. Financial Burdens Associated with New Efficiency Standards. In addition to cumulative regulatory burden, both the TSD and public comments warn that too stringent efficiency standards would result in unacceptable financial burdens for some major manufacturers and could accelerate consolidation in the central air conditioning and heat pump industry. As explained in Section III.B.2.b. of this **SUPPLEMENTARY INFORMATION,** the 13 SEER standards in the January 22 final rule are projected by the TSD to result in a negative cash flow for the industry in the year preceding the new standards' enforcement. However, the standards would impose far greater financial burdens on manufacturers whose operating costs exceed the industry average. Those manufacturers typically engage in more research and development or provide additional sales or service support than do their lower operating cost competitors. The 12 SEER standard that DOE proposes today would reduce the maldistribution of financial impacts on manufacturers and would allow manufacturers to maintain a positive cash flow.

c. *Conclusions Regarding Conventional Products.* EPCA specifies that any new or amended energy conservation standard for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)). In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens (42 U.S.C. 6295(o)(2)(B)(i)). The amended standard must ''result in significant conservation of energy'' (42 U.S.C. 6295(o)(3)(B)).

In conducting its analysis, DOE considers the impacts of standards beginning with the Max Tech Level, *i.e.,* Trial Standard Level 5 in this rulemaking. DOE then considers less efficient levels until it reaches the level which is technologically feasible and economically justified.

To aid the reader in the discussion of the benefits and burdens of the trial standard levels, DOE includes a summary of the analysis results for all of the levels in Table 4.[10] Table 4 presents a summary of quantitative analysis results for each trial standard level based on the assumptions DOE considers most plausible. These include manufacturing cost estimates from the reverse engineering, an 18.4-year equipment lifetime with one compressor replacement at 14 years, and electricity prices based on the AEO2000 Reference Case.

[10] All cumulative effects that are not monetary are not discounted. Monetary effects are discounted to 1998 dollars.

TABLE 4.—SUMMARY OF QUANTITATIVE RESULTS [1]

	Trial std 1	Trial std 2	Trial std 3	Trial std 4	Trial std 5
Primary Energy Saved (quads)	1.7	3.0	3.5	4.2	8.8
Generation Capacity Offset (GW) [2]	6.5	10.6	12.4	15.5	28.8
NPV ($billion):					
7% Discount Rate	2	2	1	1	(10)
Industry Impacts (million $): [3] [5]					
Cumulative Change in Industry NPV	(62)	(179)	(199)	(300)	
Differential impact between Industry Sub-groups [4]	75	238	261	429	
Cumulative Regulatory Burden on Industry	(>541)	(>658)	(>678)	(>779)	
Minimum net cash flow	62	31	18	(3)	
Life-Cycle Cost Savings ($): [5]					
Split AC	75	113	113	113	(137)
Packaged AC	78	163	163	29	(276)
Split HP	209	365	372	372	(41)
Packaged HP	207	421	353	353	166
Equipment Price Increase ($):					
Split AC	91	213	213	335	754
Packaged AC	89	158	158	425	859
Split HP	55	144	332	332	1039
Packaged Heat Pump	92	149	435	435	985
Fraction of all Consumers with Net LCC Losses >2% (%):					
Split AC	2	25	25	39	68
Packaged AC	1	9	9	52	73
Split HP	0	0	6	6	57
Packaged Heat Pump	0	0	12	12	48
Fraction of Low Income Consumers with Net LCC Losses >2% (%):					
Split AC	5	34	34	50	77
Packaged AC	2	14	14	61	80
Split HP	0	0	12	12	75
Packaged Heat Pump	0	0	20	20	66

[1] Parentheses indicate negative (−) values. Unless otherwise noted, Trial Standard Levels 1–3 refer to the NAECA efficiency scenario, and Trial Standard Levels 4 and 5 refer to the Roll-up efficiency scenario.
[2] Values based on NAECA efficiency scenario.
[3] Not calculated at Trial Standard Level 5.
[4] The benefit accruing to the Higher Operating Cost subgroup compared to the Lower Operating Cost subgroup.
[5] Negative values indicate LCC increases.

In addition to the quantitative results, DOE also considers other burdens and benefits that affect economic justification. The potential to improve the reliability of the electricity system is the major benefit DOE has not quantified explicitly. In areas where the occurrence of blackouts (and brownouts) can be reduced through expansion of system capacity, the economic value of avoided blackouts associated with reductions in peak load cannot exceed the value of the avoided capacity expansion. That value is already captured in DOE's analysis as savings in consumer utility bills. However, in areas that do not expect to be able to maintain adequate capacity reserves, the value of avoided blackouts associated with reductions in peak demand can far exceed the normal costs of capacity expansion.[11]

DOE also recognizes that the adopted standards could result in additional unquantifiable burdens. These include a possible increase in health problems caused by consumers foregoing air conditioner purchases, a possible reduction in the ability of the product to dehumidify, a possible lessening of competition, and possible difficulty in installing the new baseline products into replacement applications. Section IV of the preamble to the January 22 final rule discusses DOE's response to comments regarding benefits and burdens.

First DOE considered Trial Standard Level 5, the Max Tech Level for each of four classes of products, representing uniform 18 SEER requirements. The manufacturing cost DOE assumes for Trial Standard Level 5 is equal to 15 SEER equipment, although DOE would expect that assumption to understate the cost and price of the product. Trial Standard Level 5 would likely save 8.6 quads of energy between 2006 and 2030 which DOE considers significant. The energy savings through 2020 would result in the avoidance of approximately 29 gigawatts (GW) of installed generation capacity in 2020. For comparison, the generating capacity is equivalent to roughly 73 large, 400 megawatt, power plants, and reduced emissions would range up to 63 Mt of carbon equivalent and up to 184 thousand metric tons (kt) of NO_X.[12]

At Trial Standard Level 5, the average consumer would experience an increase in life-cycle cost. Compared to today's standards, purchasers of split central air-conditioners, the predominate class of central air conditioner with 65 percent of the sales of central air conditioners and heat pumps, would most likely lose in excess of $137 over the life of the appliance. Purchasers of split heat pumps, the predominate class of heat pump, would most likely lose in excess of $41. These life-cycle cost estimates represent lower bounds to the actual costs because they do not include the additional price the consumer would pay over the price of a 15 SEER product, which would increase the life-cycle cost considerably. Furthermore,

[11] For instance, if capacity-related blackouts cost a region $1 billion, society would be willing to pay up to $1 billion to prevent them. If those blackouts can be prevented through either a capacity expansion or a reduction in peak demand, and the new capacity would cost $100 million, the value of the reduction in peak demand can be no more than $100 million. If the region is short on capacity and cannot add new capacity quickly, however, the same reduction in peak demand then can equal the value of the avoided blackout ($1 billion) since there is no feasible alternative.

[12] Generating capacity, carbon and NO_X reductions are based on NAECA efficiency scenario.

for the nation as a whole, Trial Standard Level 5 would result in a net cost in excess of $10 billion in NPV. DOE did not calculate manufacturer impacts at this trial standard level, determining based on preliminary evaluation that they would be severe and unacceptable.

DOE proposes to conclude that at Trial Standard Level 5, the benefits of energy savings, generating capacity reductions and emission reductions would be outweighed by the negative economic impacts to the nation, to the vast majority of consumers and to the manufacturers. Consequently, DOE proposes to determine that Trial Standard Level 5, the Max Tech Level, is not economically justified.

Next, DOE considered Trial Standard Level 4. This level specifies 13 SEER equipment for all product classes. In considering Trial Standard Level 4, DOE assumed the Roll-up efficiency scenario and reverse engineering cost estimates to be the most probable. (*See* Section 8.4.8 of the TSD for the reasons DOE considers the Roll-up efficiency scenario most probable above Trial Standard Level 3 and the NAECA efficiency scenario most probable at Trial Standard Levels 1, 2, and 3. *See* Section 7.2.2.5 of the TSD for the current efficiency distribution for each product class and for the assumed efficiency distributions after new standards.) Primary energy savings between 2006 and 2030 would likely be 4.2 quads, which DOE considers significant. The estimated energy savings through 2020 would result in avoidance of approximately 15.5 GW in installed generating capacity in 2020. For comparison, the generating capacity is equivalent to avoiding the need for 39 large 400 megawatt power plants, and reduced emissions would range up to 33 Mt of carbon equivalent and up to 85 kt of NO_X.[13]

At this standard level, the average purchaser of a split system air conditioner, the predominate class with 65 percent of all shipments, would see the installed price of $2236 rise to $2571, an increase of $335. Lower utility bills from the energy savings would repay this increase in 11.3 years and produce a total saving with a net present value of $113 over the 18.4 year life of the product. The average purchaser of a single package air conditioner, which represents 10 percent of all shipments, would see the average installed price of $2607 rise to $3032, an increase of $425. Lower utility bills from the energy savings would repay this increase in 14.5 years and produce a total saving with a net present value of $29 over the 18.4 year life of the product.

The average purchaser of a split system heat pump, which represents 22 percent of all shipments, would see the average installed price of $3668 rise to $4000, an increase of $332. Lower utility bills from the energy savings would repay this increase in 6.4 years and produce a total saving with a net present value of $372 over the 18.4 year life of the product. The average purchaser of a single package heat pump, which represents 4 percent of all shipments, would see the average installed price of $3599 rise to $4034, an increase of $435. Lower utility bills from the energy savings would repay this increase in 8.4 years and produce a total saving with a net present value of $353 over the 18.4 year life of the product. Trial Standard Level 4 would lower peak electricity demand compared to the base case. That would allow utility service areas to either avoid new capacity or, to the extent that peak loads contribute to reliability problems, improve system reliability.

A measure of an efficiency standard's economic benefit to the nation is the increase in net present value, which is the difference in total cost, both initial cost and discounted operating cost, between the base case (without a new standard) and the case with a new standard. For Trial Standard Level 4, the increase in national net present value would be $1 billion.[14]

Since DOE expects the Roll-up efficiency scenario to result from standards adopted at Trial Standard Level 4, the burdens of Trial Standard Level 4 on manufacturers are likely to be severe. Not only does DOE expect the average loss in industry NPV to be around 20 percent, but impacts on most manufacturers would reach almost 30 percent. Their long term drop in return on investment and short term drop in cash flow suggest that standards adopted at Trial Standard Level 4 could accelerate the consolidation trend, possibly resulting in fewer choices for consumers and in a slowing of the pace of innovation well into the future. Furthermore, the cumulative impact on the industry of all new Federal and State regulations would exceed $779 million.

While the average consumer purchasing a 13 SEER air conditioner or heat pump would experience a net saving over the lifetime of the product, some households would experience net costs exceeding 2 percent of the total life-cycle cost of today's baseline units. Thus, 39 percent of the households with split system air conditioners, 52 percent with single package air conditioners, 6 percent with split system heat pumps and 12 percent with single package heat pumps would experience a net cost. The percentage of low-income consumers who would experience net costs exceeding 2 percent of the total life-cycle cost of today's baseline units is greater than that of the average household. Thus, 50 percent of low-income households with split system air conditioners, 61 percent with single package air conditioners, 12 percent with split system heat pumps and 20 percent with single package heat pumps would experience a net cost. Also, the possibility that consumers would incur substantial installation costs is great because 13 SEER equipment is not likely to fit in the same space as current 10 SEER equipment. In light of the higher purchase cost increase experienced by all consumers and the percentage of households, which experience life-cycle cost increases, consumer burdens, in particular those for low-income households, are especially acute under Trial Standard Level 4.

DOE proposes to conclude that at Trial Standard Level 4, the benefits of energy savings, generating capacity and emission avoidance, possible improvements in electric system reliability, and net benefit to the nation's consumers would be outweighed by the maldistribution of consumer benefits, the potential increase in installation costs for some consumers related to installing potentially larger equipment, and the cost to manufacturers taking into account the cumulative regulatory burden. Trial Standard Level 4 introduces the serious concern that prospective owners of air conditioning heat pump systems would instead purchase less costly air conditioner resistance heater combinations because of the substantial purchase price differential between heat pumps and air conditioners. As discussed in the January 22 notice of final rulemaking (66 FR 7196), the energy savings from the more efficient heat pumps would be eliminated if only a small fraction of heat pump owners (4 percent) switched to resistance heating. Those households residing in manufactured housing, which is often shipped from the factory without an air conditioning system but with a resistance furnace, might be inclined to simply add a lower cost air conditioner and retain the resistance

[13] Generating capacity, carbon, and NO_X reductions are based on NAECA efficiency scenario.

[14] Under the NAECA efficiency scenario, the increase in national net present value would be zero.

furnace instead of replacing the resistance furnace with a heat pump. In short, the large financial burdens of Trial Standard Level 4 are not outweighed by the expected financial benefits. Other potential burdens include possible health effects caused indirectly by foregone air conditioning purchases and possible lessening of competition. Consequently, DOE proposes to determine that Trial Standard Level 4 is not economically justified.

Next, DOE considered Trial Standard Level 3. This level specifies 12 SEER equipment for air conditioners and 13 SEER equipment for heat pumps. In considering Trial Standard Level 3, DOE assumed the NAECA efficiency scenario and reverse engineering cost estimates to be the most probable. (*See* Section 8.4.8 of the TSD for the reasons DOE considers the Roll-up efficiency scenario most probable at Trial Standard Levels 4 and 5 and the NAECA efficiency scenario most probable at Trial Standard Levels 1, 2, and 3.) Primary energy savings between 2006 and 2030 would likely be 3.5 quads, which DOE considers significant. The energy savings through 2020 would result in avoidance of approximately 12.4 GW in installed generating capacity in 2020. For comparison, the generating capacity is equivalent to avoiding the need for 31 large 400 megawatt power plants, and reduced emissions would range up to 28 Mt of carbon equivalent and up to 84 kt of NO_X.[15]

At this standard level, the average purchaser of a split system air conditioner, the predominate class with 65 percent of all shipments, would see the installed price of $2236 rise to $2449, an increase of $213. Lower utility bills from the energy savings would repay this increase in 9.8 years and produce a total saving with a net present value of $113 over the 18.4 year life of the product. The average purchaser of a single package air conditioner, which represents 10 percent of all shipments, would see the average installed price of $2607 rise to $2765, an increase of $158. Lower utility bills from the energy savings would repay this increase in 7.5 years and produce a total saving with a net present value of $163 over the 18.4 year life of the product.

The average purchaser of a split system heat pump, which represents 22 percent of all shipments, would see the average installed price of $3668 rise to $4000, an increase of $332. Lower utility bills from the energy savings would repay this increase in 6.4 years and produce a total saving with a net present value of $372 over the 18.4 year life of the product. The average purchaser of a single package heat pump, which represents 4 percent of all shipments, would see the average installed price of $3599 rise to $4034, an increase of $435. Lower utility bills from the energy savings would repay this increase in 8.4 years and produce a total saving with a net present value of $353 over the 18.4 year life of the product. Trial Standard Level 3 would lower peak electricity demand compared to the base case. That would allow utility service areas to either avoid new capacity or, to the extent that peak loads contribute to reliability problems, improve system reliability. The increase in national net present value would be $1 billion.[16]

Since DOE expects the NAECA efficiency scenario to result from standards adopted at Trial Standard Level 3, the burdens of Trial Standard Level 3 on manufacturers are likely to be less severe than at Trial Standard Level 4. DOE expects the average loss in industry NPV to be around 11 percent, but impacts on most manufacturers would be around 17 percent. Their long term drop in return on investment and short term drop in cash flow suggest that standards adopted at Trial Standard Level 3 could accelerate the consolidation trend, possibly resulting in fewer choices for consumers and in a slowing of the pace of innovation well into the future. Furthermore, the cumulative impact on the industry of all new Federal and State regulations would exceed $678 million.

Similar to the concern over Trial Standard Level 4, Trial Standard Level 3 raises the serious concern that prospective owners of air conditioning heat pump systems would purchase less costly air conditioner resistance heater combinations. In this case there is a potential loss of energy savings because of the lower standards for air conditioners compared to heat pumps. which could eliminate all energy savings from the more efficient heat pumps if only a small fraction of heat pump owners (4 percent) switched to resistance heating. Trial Standard Level 3 poses a serious concern regarding potential anti-competitive effects because the size and cost of the higher efficiency heat pumps could reduce competition between manufacturers of heat pumps and manufacturers of resistance heating and other lower cost heating systems.

DOE proposes to conclude that, at Trial Standard Level 3, the benefits of energy savings, generating capacity and emission avoidance, possible improvements in electric system reliability, and net benefit to the nation's consumers would be outweighed by the maldistribution of consumer benefits and manufacturer costs, the likelihood of higher installation costs resulting from potentially larger equipment, and the net impact on the industry in light of the cumulative regulatory burden. The most serious concern is the possibility of equipment switching that would likely substantially reduce the calculated energy savings, drastically reducing the potential benefits. Other possible burdens include lessening of competition and health effects caused by forgone air conditioner purchases. Consequently, DOE proposes to determine that Trial Standard Level 3 is not economically justified.

Next, DOE considered Trial Standard Level 2. This level specifies 12 SEER equipment for all product classes. In considering Trial Standard Level 2, DOE assumed the NAECA efficiency scenario and reverse engineering cost estimates to be the most probable. Primary energy savings between 2006 and 2030 would likely be 3 quads, which DOE considers significant. The energy savings through 2020 would result in avoidance of approximately 10.6 GW in installed generating capacity in 2020. For comparison, the generating capacity is equivalent to avoiding the need for 27 large 400 megawatt power plants, and reduced emissions would range up to 24 Mt of carbon equivalent and up to 73 kt of NO_X.[17]

At this standard level, the average purchaser of a split system air conditioner, the predominate class with 65 percent of all shipments, would see the installed price of $2236 rise to $2449, an increase of $213. Lower utility bills from the energy savings would repay this increase in 9.8 years and produce a total saving with a net present value of $113 over the 18.4 year life of the product. The average purchaser of a single package air conditioner, which represents 10 percent of all shipments, would see the average installed price of $2607 rise to $2765, an increase of $158. Lower utility bills from the energy savings would repay this increase in 7.5 years and produce a total saving with a net

[15] Generating capacity, carbon, and NO_X reductions are based on NAECA efficiency scenario.

[16] Under the Roll-up efficiency scenario, the increase in national net present value would be $2 billion.

[17] Generating capacity, carbon, and NO_X reductions are based on NAECA efficiency scenario.

present value of $163 over the 18.4 year life of the product.

The average purchaser of a split system heat pump, which represents 22 percent of all shipments, would see the average installed price of $3668 rise to $3812, an increase of $144. Lower utility bills from the energy savings would repay this increase in 3.9 years and produce a total saving with a net present value of $365 over the 18.4 year life of the product. The average purchaser of a single package heat pump, which represents 4 percent of all shipments, would see the average installed price of $3599 rise to $3748, an increase of $149. Lower utility bills from the energy savings would repay this increase in 4 years and produce a total saving with a net present value of $421 over the 18.4 year life of the product. Trial Standard Level 2 would lower peak electricity demand compared to the base case. That would allow utility service areas to either avoid new capacity or, to the extent that peak loads contribute to reliability problems, improve system reliability. The increase in national net present value would be $2 billion, which represents the highest level for all the standard levels considered.[18]

Since DOE expects the NAECA efficiency scenario to result from standards adopted at Trial Standard Level 2, the burdens of Trial Standard Level 2 on manufacturers are likely to be moderate. DOE expects the average loss in industry NPV to be around 10 percent, with impacts on most manufacturers around 16 percent. Their long term drop in return on investment and short term drop in cash flow are moderate, suggesting that standards adopted at Trial Standard Level 2 would not accelerate the consolidation trend, and could result in more choices for consumers and raise the pace of innovation. The cumulative impact on the industry of all new Federal and State regulations would exceed $658 million.

While the average consumer purchasing a 12 SEER air conditioner or heat pump would experience a net saving over the lifetime of the product, some households would experience net costs exceeding 2 percent of the total life-cycle cost of today's baseline units. Thus, 25 percent of the households with split system air conditioners and 9 percent with single package air conditioners would experience a net cost. No households with heat pumps would experience a net cost. The percentage of low-income consumers who would experience net costs exceeding 2 percent of the total life-cycle cost of today's baseline units is greater than that for an average household. Thus, 34 percent of low-income households with split system air conditioners and 14 percent with single package air conditioners would experience a net cost. No low-income households with heat pumps would experience a net cost. Also, the possibility that consumers would incur substantial installation costs is less than that with a 13 SEER standard because 12 SEER equipment is more likely to fit in the same space as current 10 SEER equipment. In light of the moderate purchase cost increase experienced by all consumers, the percentage of households, in particular low-income households, which experience life-cycle cost increases, consumer burdens are less severe under Trial Standard Level 2.

After carefully reconsidering the analyses and comments, and adjusting the weight given to consumer impacts and cumulative regulatory burden in the assessment of the benefits and burdens, DOE is proposing to amend the energy conservation standards for central air conditioners and central air conditioning heat pumps at Trial Standard Level 2. DOE proposes to conclude this standard saves a significant amount of energy and is technologically feasible and economically justified. In determining economic justification, DOE proposes to conclude that the benefits of energy savings, the projected amount of avoided power plant capacity or improvement in system reliability that accompanies expected reduction in peak demand, consumer life-cycle cost savings, national net present value increase, and emission reductions resulting from the standards outweigh the burdens. The burdens include the loss of manufacturer net present value, taking into account the cumulative regulatory burden and annual cash flow, increases in life-cycle cost for some users of products covered by today's proposed rule, any possible increase in health problems caused by consumers foregoing air conditioner purchases, any possible reduction in the ability of the product to dehumidify, any possible lessening of competition, and any possible difficulty in installing the new baseline products into replacement applications.

D. Conclusions Regarding Space-Constrained Products

If a 12 SEER minimum requirement for air conditioners and heat pumps is implemented, as proposed, DOE's analysis suggests that of all potential space-constrained products, only those with through-the-wall condensers need special consideration. The TSD contains a new appendix (Appendix L) describing the results of our recent re-evaluation of those products. The results of that analysis are summarized in Section V.A.2 above. They demonstrate that split TTW equipment can attain 10.9 SEER using designs and technologies that are commonly applied or available, with price impacts similar to those that conventional equipment would experience in meeting the proposed 12 SEER standard. The packaged equipment analyzed was demonstrated to be capable of attaining only a 10.6 SEER rating, although comments received indicate that one manufacturer of packaged TTW equipment, Armstrong, expects their equipment to be capable of attaining 11 SEER. (Armstrong No. 86 at p.3).

Based on this evaluation, DOE is proposing to establish new product classes for products that have through-the-wall condensers and are intended for replacement applications. The new classes would be required to meet minimum efficiencies lower than those of the other classes: 10.9 SEER and 7.1 HSPF for through-the-wall air conditioner and heat pump split-systems, and 10.6 SEER and 7.0 HSPF for through-the-wall air conditioner single-package systems. DOE's analysis suggests those products can attain these levels without substantial redesign or price increases that would result in a loss of market share to conventional products. Also, the life-cycle cost analysis confirms that, on average, consumers of split TTW equipment would not incur an increase in life-cycle cost, and that consumers of packaged TTW equipment would incur an increase of $52 over the life of the equipment. In no case would any consumer of split TTW products be expected to incur life-cycle costs greater than 2 percent of the total life-cycle cost, and only 17 percent of consumers of packaged TTW equipment would be expected to incur cost increases greater than 2 percent of the total life-cycle cost.

DOE proposes to conclude that standard levels higher than 10.9 SEER (split TTW) and 10.6 SEER (packaged TTW) are not technologically feasible. DOE's analysis on three TTW models suggests that those products could attain efficiencies as high as 11.4 SEER using design options that would likely be economically justified. However, the results are not conclusive and cannot be confidently applied to all TTW

[18] Under the Roll-up efficiency scenario, the increase in national net present value would be $3 billion.

products. DOE's analysis does not provide enough evidence to convince us that levels higher than 10.9 SEER (10.6 SEER for packaged TTW) will be technologically feasible during the five year period during which manufacturers would prepare to meet the new requirements. DOE's analysis does indicate that opportunities for efficiency improvement do exist, and that manufacturers of those products should continue to investigate those opportunities.

A serious concern that DOE has considered is that the lower TTW standards could encourage purchasers of conventional equipment to shift to TTW products, undermining the benefits of the 12 SEER standard for conventional products. DOE is therefore proposing that the new through-the-wall classes would consist only of products manufactured before July 26, 2010. *See* proposed definition of ''through-the-wall air conditioner and heat pump.'' Thus, the classes would exist only for a period of four years following the establishment of the new standards. During that time, the availability of suitable high-efficiency components will likely increase and the manufacturers of through-the-wall products would be able to investigate options for meeting the more stringent 12 SEER level. Both will make it easier for through-the-wall products to attain the 12 SEER minimum efficiency required of other products, thereby making 12 SEER a technologically feasible and economically justified level. The sunset provision will help to ensure that other manufacturers will not make the investment required to market through-the-wall products heavily for conventional applications during the four year period. It will also limit the time during which lower efficiency TTW equipment is installed, ensuring that additional energy savings associated with the 12 SEER level are realized in a certain time period.

To further limit the application of the through-the-wall class, products in these classes may not exceed 30,000 BTU/hr in cooling capacity, may not contain special weatherization features that would allow them to be installed totally outdoors, and must be marked for installation only through an exterior wall. DOE also proposes limiting the size of the area used for condenser air exchange to attempt to limit these classes to those products intended primarily for replacement applications.

No other new product classes are proposed since all other products types of which we are aware have demonstrated the ability to compete in the market at the 12 SEER level.

VI. Procedural Issues and Regulatory Review

A. Review Under the National Environmental Policy Act

DOE prepared an Environmental Assessment (EA) (DOE/EA–1352) available from: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–1, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–0854. DOE found the environmental effects associated with various standard efficiency levels for central air conditioners and heat pumps to be not significant, and therefore DOE published in the **Federal Register** (66 FR 7201), A Finding of No Significant Impact (FONSI) pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council of Environmental Quality (40 CFR Parts 1500–1508), and DOE's regulations for compliance with NEPA (10 CFR Part 1021).

B. Review Under Executive Order 12866

Today's regulatory action has been determined to be an ''economically significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, today's action was subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget.

The draft submitted to OIRA and other documents submitted to OIRA for review have been made a part of the rulemaking record and are available for public review in DOE's Freedom of Information Reading Room, 1000 Independence Avenue, SW, Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, telephone (202) 586–3142.

The October 5, 2000, NOPR contained a summary of the Regulatory Analysis which focused on the major alternatives considered in arriving at the approach to improving the energy efficiency of consumer products. 65 FR 59627–29. The alternatives considered in DOE's analysis are consumer product labeling, consumer education, prescriptive standards, consumer tax credits, consumer rebates, manufacturer tax credits, voluntary efficiency targets, low income subsidy, mass government purchases, and performance standards. The reader is referred to the complete draft ''Regulatory Impact Analysis,'' which is contained in the TSD, available as indicated at the beginning of this notice or from the contact person named at the beginning of this notice. The TSD provides: (1) A statement of the problem addressed by this regulation, and the mandate for government action; (2) a description and analysis of the feasible policy alternatives to this regulation; (3) a quantitative comparison of the impacts of the alternatives; and (4) the national economic impacts of the proposed standard.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that a Federal agency prepare a regulatory flexibility analysis for any rule for which the agency is required to publish a general notice of proposed rulemaking. Such an assessment of the impact of regulations on small businesses is not required if the agency certifies that the rule would not, if promulgated, have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). To be categorized as a ''small'' air conditioning and warm air heating equipment manufacturer, a firm must employ no more than 750 employees.

In the October 5, 2000 NOPR, DOE discussed the potential impacts on small businesses of the October 5 proposed rule (corresponding to Trial Standard Level 3), and certified that the proposed standard levels would not have a significant economic impact on a substantial number of small entities. 65 FR 59629–30. DOE reported that nearly all small businesses engaged in the manufacture of central air conditioners and heat pumps produce products that DOE has called ''niche'' products. To avoid adversely impacting manufacturers of niche products, DOE proposed a separate product class for through-the-wall equipment, much of which is manufactured by small manufacturers. *See* 65 FR 59609–11. In the preamble to the January 22 final rule, DOE addressed comments regarding the impacts more stringent standards might have on the availability of niche products, and although the final rule adopted the higher Trial Standard Level 4 standards, DOE deferred setting an amended standard for niche products. 66 FR 7175, 7196–97. Because the final rule excluded most products made by small manufacturers, DOE affirmed its certification.

Today DOE is proposing energy conservation standards for central air conditioners and heat pumps that correspond to Trial Standard Level 2. Because of severe size constraints, DOE is again proposing a separate product class for through-the-wall equipment,

with a lower SEER. No other provisions for niche products are being proposed.

DOE certifies, based on its analysis and public comments, that today's proposed rule would not have a significant impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis. This certification is based on an assessment of the impact the proposed standards would have on small entities that would be directly affected by their implementation, which is all the Regulatory Flexibility Act requires. The assertion by ARI, in its petition for consideration, that DOE is required to assess the indirect effects of proposed standards is contrary to established case law interpreting the Act.

D. Review Under the Paperwork Reduction Act

No new information or record keeping requirements are imposed by this rulemaking. Accordingly, no Office of Management and Budget clearance is required under the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE reviewed today's proposed rule under the standards of section 3 of the Executive Order and determined that, to the extent permitted by law, this proposed rule meets the relevant standards.

F. Review Under Executive Order 12630

DOE has determined pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 52 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the United States Constitution.

G. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. Agencies also must have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. DOE published its intergovernmental consultation policy on March 14, 2000. 65 FR 13735. DOE has examined today's proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. State regulations that may have existed on the products that are the subject of today's proposed rule were preempted by the Federal standards established in NAECA. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA.

H. Review Under the Unfunded Mandates Reform Act of 1995

With respect to a proposed regulatory action that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector of $100 million or more, section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires a Federal agency to publish estimates of the resulting costs, benefits and other effects on the national economy. 2 U.S.C. 1532(a), (b). UMRA also requires each Federal agency to develop an effective process to permit timely input by state, local, and tribal governments on a proposed significant intergovernmental mandate. DOE's consultation process is described in a notice published in the **Federal Register** on March 18, 1997. 62 FR 12820. Today's proposed rule may impose expenditures of $100 million or more on the private sector. It does not contain a Federal intergovernmental mandate.

Section 202 of UMRA authorizes an agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the January 22, 2001, notice of final rulemaking and ''Regulatory Impact Analysis'' section of the TSD for this proposed rule responds to those requirements.

Under section 205 of UMRA, DOE is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise or the selection of such an alternative is inconsistent with law. As required by section 325(o) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)), today's proposed rule would establish energy conservation standards for central air conditioners and heat pumps that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for today's proposed rule.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to

prepare a Family Policymaking Assessment.

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposed action be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's proposal would not have any adverse effects on the supply, distribution, or use of energy in the near term because neither the January 22, 2001 final rule nor any final rule resulting from this action would have any effect on the manufacture of central air conditioners and heat pumps until 2006. In the longer term, beginning in 2006, the proposed rule, if implemented, would have a positive impact on the reliability of electricity supply in the United States. The standards that DOE is proposing would represent a 20 percent improvement in the energy efficiency of split-system central air conditioners, and a 9 percent improvement in heating efficiency for heat pumps. The proposed standards would improve the cooling efficiency of single-package heat pumps by 24 percent and the heating efficiency of single-package heat pumps by 12 percent. As explained in Section IV.B.3. of this **SUPPLEMENTARY INFORMATION,** DOE estimates the standards would save approximately 3 quads of energy over 25 years (2006 through 2030). Also, in determining whether the proposed standards are economically justified, DOE considered as a benefit the potential of the proposed standards to improve the reliability of the electric generation and distribution system. *See* Section IV.D.7 (''Other Factors'') and the preamble to the January 22 final rule. 66 FR 7181–82, 7194. DOE's analysis shows the proposed standards would result in an estimated reduction in installed generation capacity in the year 2020 of approximately 11 gigawatts. This would be the equivalent of three 400 megawatt coal-fired plants and twenty-three 400 megawatt gas-fired plants.

DOE acknowledges that projections indicate that the standard levels set out in the January 22, 2001 rulemaking would avoid electricity consumption to an even greater extent than under the standard level proposed in today's supplemental notice of proposed rulemaking. However, section 325 of EPCA requires DOE to weigh all of the significant costs and benefits associated with standard levels that are being considered and not just avoided electricity costs. DOE has set forth its evaluation of costs and benefits elsewhere in this notice (see Section V.C.). DOE has also considered various regulatory and non-regulatory alternatives to today's proposed standard (*see* Section VI.B., ''Review Under Executive Order 12866,'' and the Regulatory Impact Analysis portion of the TSD). DOE has concluded that the costs associated with elevating the current standard to the standard level set forth in the January 22, 2001, final rule exceed the associated benefits, including the benefit of avoided electricity consumption.

VII. Public Comment

A. Written Comment Procedures

DOE invites interested persons to participate in the proposed rulemaking by submitting data, comments, or information with respect to the proposed issues set forth in today's proposed rule to Ms. Brenda Edwards-Jones, at the address indicated at the beginning of this notice. We will consider all submittals received by the date specified at the beginning of this notice in developing the final rule.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and ten (10) copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat as confidential information that has been submitted include: (1) A description of the items; (2) an indication as to whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) whether disclosure of the information would be contrary to the public interest.

B. Public Workshop/Hearing

1. Procedure for Submitting Requests To Speak

You will find the time and place of the public hearing listed at the beginning of this notice. We invite any person who has an interest in today's notice, or who is a representative of a group or class of persons that has an interest in these issues, to request an opportunity to make an oral presentation. If you would like to attend the public hearing, please notify Ms. Brenda Edwards-Jones at (202) 586–2945. You may hand deliver requests to speak to the address indicated at the beginning of this notice between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send them by mail or E-mail to brenda.edwards-jones@ee.doe.gov.

The person making the request should state why he or she, either individually or as a representative of a group or class of persons, is an appropriate spokesperson, briefly describe the nature of the interest in the rulemaking, and provide a telephone number for contact. We request each person selected to be heard to submit an advance copy of his or her statement at least two weeks prior to the date of this hearing as indicated at the beginning of this notice. At our discretion, we may permit any person who cannot do this to participate if that person has made alternative arrangements with the Office of Building Research and Standards in advance. The request to give an oral presentation should ask for such alternative arrangements.

2. Conduct of Hearing

DOE will designate a DOE official to preside at the workshop and we may also use a professional facilitator to facilitate discussion. The workshop will

not be a judicial or evidentiary-type hearing, but DOE will conduct it in accordance with 5 U.S.C. 553 and Section 336 of the Act and a court reporter will be present to record the transcript of the workshop. We reserve the right to schedule the presentations by workshop participants, and to establish the procedures governing the conduct of the workshop.

DOE will permit each participant to make a prepared general statement, limited to five (5) minutes, prior to the discussion of specific topics. DOE will permit other participants to briefly comment on any general statements.

DOE will introduce each topic with a brief summary of the relevant parts of our analysis and of the proposed rule, and the significant issues involved. We will then permit participants in the hearing to make a prepared statement limited to five (5) minutes on that topic. At the end of all prepared statements on a topic, DOE will permit each participant to briefly clarify his or her statement and comment on statements made by others. Participants should be prepared to answer questions by us and by other participants concerning these issues. Our representatives may also ask questions of participants concerning other matters relevant to the hearing. The total cumulative amount of time allowed for each participant to make prepared statements will be 20 minutes.

The official conducting the hearing will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules, or modification of the above procedures, needed for the proper conduct of the hearing.

We will make the entire record of this rulemaking, including the transcript, available for inspection in DOE's Freedom of Information Reading Room. Any person may purchase a copy of the transcript from the transcribing reporter.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, D.C., on July 18, 2001.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, Code of Federal Regulations is proposed to be amended, as set forth below.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

2. Section 430.2 is amended by adding definitions for ''effective date,'' ''maximum allowable energy use,'' ''minimum required energy efficiency,'' and ''through-the-wall air conditioner and heat pump'' in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Effective date for purpose of the part, means the date on and after which a manufacturer must comply with an energy conservation standard in the manufacture of a covered product.

* * * * *

Maximum allowable energy use means an energy conservation standard for a covered product, expressed in terms of a maximum amount of energy that may be consumed, which is established by statute or by a final rule that has modified this part pursuant to a date DOE has selected consistent with the Congressional Review Act (5 U.S.C. 801–804) and any other applicable law.

* * * * *

Minimum required energy efficiency means an energy conservation standard for a covered product, expressed in terms of a minimum efficiency quotient, which is established by statute or by a final rule that has modified this part pursuant to a date DOE has selected consistent with the Congressional Review Act (5 U.S.C. 801–804) and any other applicable law.

* * * * *

Through-the-wall air conditioner and heat pump means a central air conditioner or heat pump that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and:

(1) Is manufactured prior to July 26, 2010;

(2) Is not weatherized;

(3) Is clearly and permanently marked for installation only through an exterior wall;

(4) Has a rated cooling capacity no greater than 30,000 Btu/hr;

(5) Exchanges all of its outdoor air across a single surface of the equipment cabinet; and

(6) Has a combined outdoor air exchange area of less than 800 square inches (split systems) or less than 1,210 square inches (single packaged systems) as measured on the surface described in (5).

* * * * *

3. Section 430.32 of Subpart C is amended by revising paragraph (c) to read as follows:

§ 430.32 Energy and water conservation standards and effective dates.

(c) *Central air conditioners and central air conditioning heat pumps.* (1) Split system central air conditioners and central air conditioning heat pumps manufactured after January 1, 1992, and before July 25, 2006, and single package central air conditioners and central air conditioning heat pumps manufactured after January 1, 1993, and before July 25, 2006, shall have Seasonal Energy Efficiency Ratio and Heating Seasonal Performance Factor no less than:

Product class	Seasonal energy efficiency ratio	Heating seasonal performance factor
1. Split systems	10.0	6.8
2. Single package systems	9.7	6.6

(2) Central air conditioners and central air conditioning heat pumps manufactured on or after July 25, 2006, shall have Seasonal Energy Efficiency Ratio and Heating Seasonal Performance Factor no less than:

Product class	Seasonal energy efficiency ratio (SEER)	Heating seasonal performance factor (HSPF)
1. Split system air conditioners	12	.....
2. Split system heat pumps	12	7.4
3. Single package air conditioners	12	.....
4. Single package heat pumps	12	7.4

Product class	Seasonal energy efficiency ratio (SEER)	Heating seasonal performance factor (HSPF)
5.A. Through-the-wall air conditioners and heat pumps—split system	10.9	7.1
5.B. Through-the-wall air conditioners and heat pumps—single package	10.6	7.0

* * * * *

4. Section 430.34 is added to Subpart C to read as follows:

§ 430.34 Energy and water conservation standards amendments

The Department of Energy may not prescribe any amended standard which increases the maximum allowable energy use or, in the case of showerheads, faucets, water closets or urinals, water use, or which decreases the minimum required energy efficiency of a covered product.

Appendix

(The following letters from Department of Justice will not appear in the Code of Federal Regulations.)

DEPARTMENT OF JUSTICE—Antitrust Division

A. DOUGLAS MELAMED—Acting Assistant Attorney Genera1

Main Justice Building, 950 Pennsylvania Avenue. NW., Washington, DC 20530–0001, (202) 514–2401/ (202) 616–2645 (f), antitrust@justice.usdoj.gov (internet), http://www.usdoj.gov (World Wide Web)

December 4, 2000

Mary Anne Sullivan, General Counsel, Department of Energy, Washington, D.C. 20585

Dear General Counsel Sullivan: I am responding to your October 16, 2000 letter seeking the views of the Attorney General about the potential impact on competition of two proposed energy efficiency standards: one for clothes washers and the other for residential central air conditioners and heat pumps. Your request was submitted pursuant to Section 325(o)(2)(B)(i) of the Energy Policy and Conservation Act, 42 U.S.C. § 6291, 6295 (''EPCA''), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy efficiency standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g).

We have reviewed the proposed standards and the supplementary information published in the **Federal Register** notices and submitted to the Attorney General, which include information provided to DOE of Energy by manufacturers. We have additionally conducted interviews with members of the industries.

We have concluded that the proposed clothes washer standard would not adversely affect competition. In reaching this conclusion, we note that the proposed standard is based on a joint recommendation submitted to DOE of Energy by manufacturers and energy conservation advocates. That recommendation states that virtually all manufacturers of clothes washers who sell in the United States participated in arriving at the recommendation through their trade association, that the recommendation was developed in consultation with small manufacturers, and that the manufacturers believe the new standard would not likely reduce competition. We note further that, as the industry recommended, the proposed standard will be phased in over six years, which will allow companies that do not already have products that meet the proposed standard sufficient time to redesign their product lines.

With respect to the proposed residential central air conditioner and heat pump standard, we have concluded that there could be an adverse impact on competition. The proposed standard, Trial Standard Level 3, is expressed in terms of two industry measurements: SEER (Seasonal Energy Efficiency Ratio) and HSPF (Heating Seasonal Performance Factor).[1] These standards would change from the current central air conditioner and heat pump efficiency standards of 10 SEER/6.8 HSPF for split system air conditioners and heat pumps and 9.7 SEER/6.6 HPSF for single package air conditioners and heat pumps to 12 SEER for air conditioners and 13 SEER/7.7 HPSF for heat pumps.

We have identified three possible competitive problems presented by the proposed standards. First, the proposed 13 SEER heat pump standard would have a disproportionate impact on smaller manufacturers. Currently less than 20% of the total current product lines meet the proposed standards, but for some small manufacturers, 100% of their product lines fail to satisfy the proposed standard.

Second, the proposed standard for heat pumps, and in some instances for air conditioners, would have an adverse impact on some manufacturers of these products (including those products referred to in the **Federal Register** notice as ''niche products'') used to retrofit existing housing and used in manufactured housing. These manufacturers could not make units that comply with the rule and fit into the available space.

Third, the proposed heat pump standard of 13 SEER could make heat pumps less competitive with alternative heating and cooling systems. Because the standard will result in increases in the size and cost of heat pumps, it is possible that purchasers will shift away from heat pumps to other systems that inc1ude electric resistance heat, reducing the competition that presently exists between heat pumps and those other systems.

Department of Justice urges DOE of Energy to take into account these possible impacts on competition in determining its final energy efficiency standard for air conditioners and heat pumps. DOE of Energy should consider setting a lower SEER standard for heat pumps, such as the standard included in Trial Standard Level 2, and a lower SEER standard for air conditioners for retrofit markets where there are space constraints (such as markets served by niche products) and for manufactured housing.

Sincerely,

A. Douglas Melamed.

DEPARTMENT OF JUSTICE—Antitrust Division–Antitrust Division

JOHN M. NANNES–Acting Assistant Attorney General

Main Justice Building, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001, (202) 514–2401/ (202) 616–2645 (f), antitrust@justice.usdoj.gov (internet) http://www.usdoj.gov (World Wide Web)

April 5, 2001

Eric J. Fygi, Acting General Counsel, Department of Energy, Washington, DC 20585

Dear Acting General Counsel Fygi: I am responding to your letter dated March 20, 2001, seeking the views of the Attorney General about the potential effect on competition of the final rule published on January 22, 2001, setting forth new energy efficiency standards for central air conditioners and heat pumps. You specifically asked for our views about the impact on competition of the rule's prescription of a 13 SEER (Seasonal Energy Efficiency Rating) standard for all product classes, except for niche products, and the desirability of reducing the standard to a 12 SEER level for all subcategories. Your letter requested our views by March 30, but your staff agreed to extend the response date to Apri1 6.

As you noted in your letter to the Attorney General, the Antitrust Division had earlier expressed its views on the proposed rule, which provided for a 12 SEER standard for air conditioners and a 13 SEER standard for heat pumps. The Division had concluded that the 13 SEER standard for heat pumps

[1] The **Federal Register** notice also requested comments on a proposal to adopt a standard for steady-state cooling efficiency (EER) and discussed several options DOE of Energy is considering. The proposed rule set forth in the notice does not, however, include a provision regarding an EER standard, and the views of Department of Justice expressed in this letter are limited to the impact of any lessening of competition * * * that is likely to result from the imposition of the [proposed] standard,'' as required by EPCA. If DOE of Energy proposes a rule in the future incorporating an EER standard, DOE will then evaluate that proposed rule and express its views about the competitive impact of that standard.

could have an adverse effect on competition and urged the Department of Energy to adopt a 12 SEER standard for heat pumps. We noted only minor concerns about the proposed 12 SEER standard for air conditioners.

We have reviewed the final rule and determined that the 13 SEER heat pump standard still raises competitive problems. We have further determined that the 13 SEER standard for air conditioners also raises competitive concerns.

In our earlier letter, we identified and described three competitive problems resulting from the proposed 13 SEER standard for heat pumps, including a disproportionate impact on smaller manufacturers [2] and an adverse effect on manufacturers of specialized equipment (the niche product manufacturers) and manufacturers of equipment for space-constrained installation sites (such as manufactured housing, which accounts for a significant percentage of the country's housing starts). The exception made in the final rule for niche product manufacturers may alleviate competitive problems for their products, but the exception does not eliminate the difficulties for manufacturers of standard equipment who could not make equipment that complied with the 13 SEER standard and still fit into space-constrained sites. The final rule also continues to have a disproportionate impact on smaller manufacturers of heat pumps. The 13 SEER standard for air conditioners raises the same kinds of competitive problems as the 13 SEER standard does for heat pumps.

We urge the Department of Energy to consider the impact on competition and to adopt a 12 SEER standard for all products covered by the rule.

Sincerely,

John M. Nannes.

[FR Doc. 01–18429 Filed 7–24–01; 8:45 am]

BILLING CODE 6450–01–P

[2] We noted in our previous letter that less than 20% of the total current heat pump product lines meet the new standard, but for some small manufacturers, 100% of their product lines failed to satisfy the standard. The same is true for air conditioner manufacturers when the standard is 13 SEER.

Federal Register

Wednesday,
July 25, 2001

Part IV

Department of Housing and Urban Development

Funding Availability: Fair Housing Initiatives Program Education and Outreach—National Program—Model Codes Partnership Component; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4693–N–01]

Notice of Funding Availability: Fair Housing Initiatives Program Education and Outreach—National Program—Model Codes Partnership Component

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: Purpose of the Program. The purpose of the Fair Housing Initiatives Program (FHIP) is to increase compliance with the Fair Housing Act (the FHAct) and with substantially equivalent State and local fair housing laws. The activities funded under the Education and Outreach-National Program, Model Codes Partnership Component will seek to promote a collaborative partnership among builders and other housing industry providers and associations and disability advocacy or fair housing groups to encourage the adoption of model building codes at the State and local level that are consistent with the accessibility requirements of the Fair Housing Act, its regulations and the Fair Housing Accessibility Guidelines. This component first was announced in the Fiscal Year 2000 FHIP NOFA. However, no timely applications for that component were received; therefore, HUD again is soliciting applications in this NOFA.

SUPPLEMENTARY INFORMATION: If you are interested in applying for funding, please carefully review the Fair Housing Initiatives Program (FHIP) authorizing statute (Sec. 561 of the Housing and Community Development Act of 1987, as amended), and the FHIP Regulations (24 CR 125.103–501).

Available Funds: Approximately $1 million.

Application Deadline: August 24, 2001.

Match: None.

Application Due Date and Application Submission Procedures

Application Due Date

Your completed application must be submitted to HUD Headquarters, on or before 12:00 Midnight, Eastern Daylight Savings time, on or before August 24, 2001.

Application Submission Procedures

Mailed Applications. Your application will be considered timely filed if it is postmarked on or before 12:00 midnight, Eastern Daylight Savings time on the application due date and received by the designated HUD address on or within ten (10) days after the application due date.

Applications Sent by Overnight/Express Mail Delivery. If your application is sent by overnight delivery or express mail, your application will be timely filed if it is received before or on the application due date, or when you submit documentary evidence that your application was placed in transit with the overnight delivery/express mail service by no later than the application due date and received by the designated HUD office within ten (10) days after the application due date.

Hand Carried Applications. Complete, assembled applications must be submitted to HUD Headquarters. Hand carried applications delivered before and on the application due date must be brought to the specified location at HUD Headquarters and room number between the hours of 8:45 am to 5:15 p.m., Eastern Daylight Savings time. Applications hand carried on the application due date will be accepted in the South Lobby of the HUD Headquarters Building from 5:15 p.m. until 12 midnight, Eastern Daylight Savings time. This deadline date is firm. Please make appropriate arrangements to arrive at the HUD Headquarters Building before 12 midnight, Eastern Daylight Savings time on the application due date.

Address for Submitting Applications. Your completed application consists of an original signed application and five copies. Submit your completed application to: FHIP EOI—National Program, Model Codes Partnership Component; FHIP/FHAP Support Division, Office of Fair Housing and Equal Opportunity; U.S. Department of Housing and Urban Development; 451 Seventh Street, SW., Room 5224, Washington, DC 20410. When you submit your application, please provide the following information at the front top left corner of the mailing envelope: your organization's name, name of contact person, mailing address (including zip code), telephone number (including area code), and fax number (including area code).

FOR FURTHER INFORMATION CONTACT: Lauretta A. Dixon, Myron P. Newry, or Denise L. Brooks of the FHIP/FHAP Support Division, at 202–708–0800. (This is not a toll-free number.) Persons with a hearing or speech impairment may call 1–800–290–1617 (This is a toll-free number). There is no application kit for this program.

I. Amount Allocated

Approximately $1,000,000 in FY 2000 FHIP–EOI—National Program funds is allocated for this Model Codes Partnership Component. HUD anticipates making a single award covering a 24-month period. The award cap (the maximum amount of funds that can be awarded for this grant) is $1,000,000.

II. Initiative/Component; Eligible Applicants; Eligible Activities

(1) Initiative Description

The Education and Outreach Initiative assists projects that inform and educate the public about the rights and obligations under the Act and substantially equivalent State and local fair housing laws.

(2) Component Description

The purpose of this Component is to promote a collaborative partnership among builders and other housing industry providers and associations and disability advocacy or fair housing groups to encourage the adoption of model building and housing codes at the State and local level that are consistent with the accessibility requirements of the Fair Housing Act, its regulations and the Fair Housing Accessibility Guidelines. The Fair Housing Act cannot compel the adoption of model codes but HUD is encouraging jurisdictions to adopt such codes and a model code has been developed by the HUD Working Group for use by jurisdictions that wish to adopt such codes. You may want to ask jurisdictions that have adopted compliant codes to work with you in assisting other jurisdictions.

(3) Eligible Applications

Applications must be submitted on behalf of a partnership of a minimum of two entities, at least one of which is a disability advocacy or fair housing group or organization. The roles of each partner must be clearly delineated. A letter of firm commitment must be included stating that the partner(s) agrees to the proposed Statement of Work and will participate in the Component, if selected for award. If you fail to include this letter of firm commitment with your application but your Statement of Work identifies the activities and tasks to be conducted by each partner, then your failure to provide the letter will be considered a technical deficiency. Your application must identify all subrecipients and consultants/contractors who will work under this Component.

Applicants must conduct a project that is national in scope. Although the Component must operate on a national scale, applicants and their partner(s) need not be national organizations, so long as they have the capacity to conduct a national program. For example, applicants or their partner(s) may collaborate with affiliates or organizations that have affiliates or under some other structure in order to operate throughout the country. Your application must explain why and how the proposed collaborations will work best to accomplish the objectives of this Component.

(4) Eligible Applicants

All applicants must meet the Civil Rights Threshold Requirements referenced in Section III of this NOFA. You are eligible to apply for funding if you are—a qualified fair housing organization (QFHO); a fair housing enforcement organization (FHO); a public or private, for-profit or not-for-profit organization, institution or entity that is formulating or carrying out programs to prevent or eliminate discriminatory housing practices; a State or local government or agency; including those that participate in the Fair Housing Assistance Program (see the list of FHAP agencies at Appendix D). You also must have demonstrated technical expertise in the design and construction requirements of the Fair Housing Amendments Act of 1988, the Fair Housing Accessibility Guidelines, Fair Housing Regulations, the ANSI A117.1 technical standards, and State and local building codes.

Applicants may establish their ''demonstrated technical expertise'' in many ways; for example: (i) your organization has designed or conducted training or seminars on the accessibility provisions of the Fair Housing Act for building inspectors, architects, housing providers, or developers in a jurisdiction with a building code that incorporates these provisions, or (ii) your organization is thoroughly knowledgeable about design and construction requirements of the Fair Housing Act/Accessibility Guidelines, the ANSI A117.1 technical standards, and State and local building codes. Agendas, course(s) descriptions, specific examples of work experiences and years of experience must be highlighted when establishing demonstrated technical expertise.

(5) Eligible Activities

The following activities are eligible under this Component: conducting educational symposia; distributing existing fair housing materials throughout your project area; providing outreach and information on fair housing through printed and electronic media; and providing outreach to persons with disabilities and/or their support organizations and service housing providers, and the general public regarding the rights of persons with disabilities under the Fair Housing Act. These kinds of activities may be used to accomplish the following objectives under this NOFA:

(a) Assisting State and local jurisdictions that modify their existing building codes so that they are consistent with the accessibility requirements of the Fair Housing Act and the Fair Housing Accessibility Guidelines, and the ANSI A117.1 technical standards;

(b) Educating State and local officials on the requirements of the Fair Housing Act and the Fair Housing Accessibility Guidelines, the ANSI A117.1 technical standards, or the State or local building codes if such codes do not already incorporate requirements that are fully consistent with the Act;

(c) Developing an electronically accessible ''Best Practices Directory'' for disseminating information to those interested in finding peer communities and organizations that have successfully adopted or revised their model building codes to meet the Fair Housing Act's accessibility requirements, the Fair Housing Accessibility Guidelines, and the ANSI A1171.1 technical standards; or

(d) Providing assistance and reviewing proposed modifications of language to be included in building codes to ensure that such codes meet the Fair Housing Act's accessibility requirements, the Fair Housing Accessibility Guidelines, and the ANSI A1171.1 technical standards.

III. Program Requirements

If awarded a grant, you must comply with all requirements, including the following:

(1) Performance Measures and Products

Your application must demonstrate how your project activities will encourage and facilitate the development and adoption of building and housing codes at the State and local levels that are consistent with the accessibility requirements of the Fair Housing Act. Your application also must contain a strategy for generating project products, with related timelines and milestones. If selected for funding, your final performance measures and products will be negotiated between you and HUD as part of your executed grant agreement.

(2) Reports and Meetings on Performance Measures and Products

You are required to report quarterly on the status of project products against your approved milestones and timelines and meet at least semi-annually with HUD to ensure that project activities satisfy grant requirements. In your final grant report, you must report on the status of the performance measures in a spreadsheet format or other manner specified by the Department.

(3) Project Starting Period

For planning purposes, assume a start date no later than September 30, 2001.

(4) Training

Your proposed budget must include a set-aside of $6,000 for training over a 24 month period. Recipients may use these funds to attend both HUD-sponsored and HUD-approved training. Requests to attend HUD-approved training must be submitted to the Governmental Technical Representative (GTR) for approval in advance of the requested training.

(5) Payment Contingent on Completion

Payments are contingent on the satisfactory completion of your project activities and products as reflected in your grant or cooperative agreement.

(6) Accessibility Requirements

All activities and materials funded by this Program must be accessible to persons with disabilities (*See* 24 CFR 8.4, 8.6, and 8.54).

(7) Copyright Materials

You may copyright any work that is eligible for copyright protection; however, HUD reserves the right to reproduce, publish, or otherwise use your work for Federal purposes, and to authorize others to do so as outlined in 24 CFR 84.36.

(8) Complaints Against Awardees

Complaints from the public against recipients of EOI–National Program awards must be forwarded to the Director of the FHIP/FHAP Support Division at the Department of Housing and Urban Development, Fair Housing and Equal Opportunity, Headquarters Office, 451 Seventh Street, SW., Room 5230, Washington, DC 20410. If, after notice and consideration of relevant information, HUD concludes that there has been inappropriate conduct, such as a violation of FHIP program requirements, grant, or cooperative agreement terms or conditions or of any other applicable statute, regulation or other requirement, HUD will take appropriate action in accordance with

24 CFR 84.62. Such action may include: written reprimand; consideration of past performance in ranking future FHIP applications; reimbursement of the funds received under the grant; or temporary or permanent denial of participation in the FHIP in accordance with 24 CFR part 24.

(9) Avoiding Double Payments

If you are awarded funds under this NOFA, you and any subreceipients or subcontractor/consultant may not charge or claim credit for the activities performed under this project to any other Federal project.

(10) Federal Requirements and Procedures

If awarded a grant, you and all subrecipients or consultants/contractors must comply with all Federal requirements, including the following:

(a) All Fair Housing and civil rights laws, statutes, regulations and executive orders as enumerated in 24 CFR 5.105(a). If you are a Federally recognized Indian tribe, or one of its instrumentalities, you must comply with the nondiscrimination provisions enumerated at 24 CFR 1000.12;

(b) The Americans with Disabilities Act of 1990 (42 U.S.C. 1201 *et seq.*), and Title IX of the Education Amendments Act of 1972 (20 U.S.C. 1681 *et seq.*);

(c) The disclosure requirements and prohibitions of 31 U.S.C. 1352 and implementing regulations at 24 CFR part 87; and

(d) The requirements for funding competitions established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3531 *et seq.*).

(11) Accessible Technology

The Rehabilitation Act Amendments of 1998 apply to all electronic information technology (EIT) used by a grantee for transmitting, receiving, using, or storing information to carry out the responsibilities of any federal grant awarded. It includes, but is not limited to, computers (hardware, software, wordprocessing, email, and webpages) facsimile machines, copiers, and telephones. Recipients of HUD funds when developing, procuring, maintaining, or using EIT must ensure that the EIT allows:

(a) Employees with disabilities to have access to and use information and data that is comparable to the access and use of data by employees who do not have disabilities; and

(b) Members of the public with disabilities seeking information or service from a grantee must have access to and use of information and data comparable to the access and use of data by members of the public who do not have disabilities.

If these standards impose on a funding recipient, they may provide an alternative means to allow that individual to use the information and data. However, no grantee will be required to provide information services to a person with disabilities at any location other than the location at which the information services are generally provided

(12) Your Application Will Be Declared Ineligible for Any of the Following Reasons:

(a) *Failure to meet Civil Rights Threshold Requirements under this Notice of Funding Availability.* You fail to meet those requirements if you or any subrecipient or consultant/contractor:

(i) Has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination;

(ii) Is a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or

(iii) Has received a letter of noncompliance findings under Title VI, Section 504, or Section 109.

Note: HUD will not rate and rank your application if the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department before the application deadline stated in this NOFA. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(b) *Debarment and Suspension.* If you are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

(c) *Award Caps.* If you request funding in excess of the maximum allowed under this Component. Any amount over the award cap, even if less than one dollar, will be considered excessive. In addition, inconsistencies in the amount requested and/or miscalculations that result in amounts over the award caps will be considered excessive.

(d) *Research Activities.* If your project is aimed solely or primarily at research, including but not limited to surveys or questionnaires.

(e) *Partnership Requirements.* Proposed activities that will not be performed by a partnership.

(13) Ineligible Activities

(a) *Fair Housing and Free Speech.* None of the amounts made available under this NOFA may be used to investigate or prosecute under the Act any activity engaged in by one or more persons, including the filing or maintaining of a non-frivolous legal action, that is protected by the First Amendment to the U.S. Constitution. This includes activities engaged in for the purpose of achieving or preventing action by a government official or entity.

(b) *Suits against the United States.* No recipient of assistance under this Program may use any funds provided by HUD for the payment of expenses in connection with litigation against the United States (24 CFR 125.104(f)).

(c) *Other Litigation.* Recipients may not use FHIP funds to settle a claim, satisfy a judgment, or fulfill a court order in any defensive litigation.

(14) Key Personnel

If your organization is selected for award, you must advise HUD whether any key personnel have been convicted of a felony or crime involving fraud or perjury. In advising HUD, you must describe the type of conviction, the date entered and the penalty received and submit a copy of the report from the police or court documenting the conviction. Depending upon the facts, HUD may place special conditions upon the grant.

(15) Program Definitions

The definitions that apply to this NOFA are as follows:

(a) *Disability advocacy groups* means organizations that have provided for the civil rights of persons with disabilities. This includes organizations such as Independent Living Centers, and cross-disability legal services groups. Organizations must be experienced in providing services to persons with a broad range of disabilities, including physical, cognitive, and psychiatric/mental disabilities. Organizations must demonstrate actual involvement of persons with disabilities throughout their activities, including as staff to the project and as members of the applicant's board of directors.

(b) *Enforcement proposals* are potential complaints under the Fair Housing Act that are timely, jurisdictional, and well developed, which could reasonably be expected to become enforcement actions if an impartial investigation finds evidence supporting the allegations and the cases proceeded to a resolution with HUD involvement.

(c) *Fair Housing Assistance Program (FHAP) Agencies* means State and local

government agencies that administer laws substantially equivalent to the Fair Housing Act, as described in 24 CFR part 115.

(d) *Fair Housing Enforcement Organization (FHO)* means an organization engaged in fair housing activities as defined in 24 CFR 125.103.

(e) *Operating budget* means your organization's total planned budget expenditures from all sources, including the value of in-kind and monetary contributions, in the period for which funding is requested.

(f) *Qualified Fair Housing Enforcement Organization (QFHO)* means an organization engaged in fair housing activities as defined in 24 CFR 125.103.

(g) *Traditional Civil Rights Organizations* means non-profit organizations or institutions and/or private entities with a history and primary mission of securing Federal civil rights protection for groups and individuals protected under the Act or substantially equivalent State or local laws and that are engaged in programs to prevent or eliminate discriminatory housing practices.

IV. Application Selection Process

(A) Rating and Ranking

(1) Your application for funding will be evaluated competitively against all other applications submitted under the Model Codes Partnership Component.

(2) You will be awarded points and assigned a score based on the Factors for Award. After eligible applications are evaluated against the Factors for Award and assigned a score, they will be ranked in order according to the score received. A minimum score of seventy (70) points will be considered a cutoff point and an application with a score of 70 points or more will be considered of sufficient quality. An application receiving fewer than seventy (70) points will be considered of insufficient quality for funding.

(B) Factors for Award Used To Evaluate and Rate Applications Submitted Under This Component

The factors for rating and ranking applicants and the maximum points for each factor are provided below. The maximum number of points to be awarded any application is 102. No EZ/EC bonus points will be awarded to applications received under the EOI-National Program, Model Codes Partnership Component.

Court-Ordered Consideration

For any application submitted by the City of Dallas, Texas, for funds under this NOFA for which the City of Dallas is eligible to apply, HUD will consider the extent to which the strategies or plans in the city's application or applications will be used to eradicate the vestiges of racial segregation in the Dallas Housing Authority's low income housing programs. The City of Dallas should address the effect, if any, that vestiges of racial segregation in the Dallas Housing Authority's low income housing programs have on potential participants in the programs covered by this NOFA, and identify proposed actions for remedying those vestiges. HUD may add up to two points to the score based on this consideration. This special consideration results from an order of the U.S. District Court for the Northern District of Texas, Dallas Division. (This Court-Ordered Consideration is limited to applications submitted by the City of Dallas.)

(C) Selections

Only the highest ranked application will be selected for an award.

(D) Tie Breaking

When there is a tie in the overall score, the applicant with the higher score under Rating Factor 3: Soundness of Approach will be ranked higher. If the applicants received the same scores for Rating Factor 3, the applicant with a higher score under Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience will be ranked higher. If these scores are identical, then the applicant with the request for lower FHIP funding will be ranked higher.

Rating Factor 1: Capacity of Applicant and Relevant Organizational Experience (20 Points)

This factor assesses the relevant and recent experience of your organization to conduct the proposed work. Recent experience is considered to be work underway or completed within the last two years. Unless otherwise specified, the rating of your organization will include any staff and/or partner(s), subrecipient(s), or consultant(s)/contractor(s) who are identified in your application as working with you on undertaking your work activities.

In evaluating your capacity, HUD will take into account information in its files concerning your performance on other FHIP-funded awards measuring program expenditures, timely completion of activities and submission of reports and results in meeting proposed beneficiary or impact targets. HUD will measure your capacity based upon the following criteria:

(a) Organizational Capacity (10 Points)

(i) The extent to which you have the organizational resources necessary to implement your proposed activities on time, your past experience in working with State or local officials, housing industry representatives and organizations, and disability rights organizations and others in consensus building, achieving changes to existing housing and accessibility codes and related items, operating in environments that are not receptive to accessibility requirements, and interacting with officials, representatives, or advocates that have divergent or opposing viewpoints. Include descriptions of your organization and, if applicable, your affiliate chapters, or that of your partner's affiliates or other structure that will be used to ensure the National coverage required by this project.

(ii) Your experience and knowledge of the Fair Housing Act's accessibility requirements, the Fair Housing Accessibility Guidelines, the ANSI A117.1 technical standards, and skill in disseminating information and training to State and local government agencies, housing agencies and/or the public on these requirements and responsibilities.

Your success in achieving demonstrated measurable progress in the implementation of your most recent funded activities. You must describe your organization's past performance record in the projects you cite in support of your capacity and expertise to perform the project for which you are seeking funding under this NOFA. Include a description of the purpose of the past project and what was accomplished. Attach a copy of the funding entity's performance assessment/review of this project. If the project received Federal or HUD funds, include a copy of the most recent SF–269a, Financial Status Report.

If you have not received funding in the past from HUD, HUD will consider your experience in managing projects similar in nature and national scope to the work activities proposed.

(b) Specific Staff Capacity (10 Points)

You must show that you have sufficient, qualified staff who will be available to complete the proposed activities. Provide the following information not just for key personnel (identified in attachments to Rating Factor 3: Soundness of Approach) but for all staff assigned to or hired for this project:

Identify, by name and/or title, all persons who will be assigned to the project. You must describe the knowledge and experience of the

proposed overall project director and day-to-day program manager in planning and managing large and complex interdisciplinary programs. In addition, you must ensure that there is adequate staff with knowledge and/or expertise in architectural and building design to assist in the development of building codes for State and local jurisdictions.

Indicate the percentage of time that key personnel will devote to your project. To receive maximum points, your day-to-day program manager must devote a minimum of 75% of his/her time to the project. You may demonstrate capacity by thoroughly describing your prior experience in fair housing. You should indicate how this prior experience will be used in carrying out your proposed activities. Your application must clearly identify those persons who are on staff at the time this application is filed, and those persons who will be assigned at a later date; describe each person's duties and responsibilities and their expertise (including years of experience) to perform project tasks; indicate whether the staff person is assigned to work full-time or part-time (if part-time, indicate the percentage of time each person is assigned to the project).

Rating Factor 2: Need/Distress/Extent of the Problem (25 Points)

In rating this Factor HUD will consider the extent to which your application:

(a) Identifies areas that show where significant amounts of new multifamily housing construction will take place and identifies the State and local jurisdictions that need to add or modify building codes so that they are consistent with the accessibility requirements of the Fair Housing Act, the Fair Housing Accessibility Guidelines, and the ANSI A117.1 technical standards. In order to document the need you must use reports, statistics, and other data sources that are sound and reliable, including, but not limited to, HUD or other Federal, State or local government reports and analyses, relevant economic and/or demographic data, reports and studies from educational institutions/foundations, news articles, and other information that relate to the identified need.

(b) Identifies State and local jurisdictions with codes that: (i) Are consistent with the requirements of the Fair Housing Act and those that need review, (ii) are not consistent with the requirements of the Fair Housing Act and will be targeted for assistance/services offered by this project to ensure that such codes meet the requirements of the Fair Housing Act, Fair Housing Regulations, the Fair Housing Accessibility Guidelines, and the ANSI A117.1 technical standards, and (iii) have no codes and are in need of the assistance/services offered by this project so that they may adopt codes that meet the requirements of the Fair Housing Act, Fair Housing Regulations, the Fair Housing Accessibility Guidelines, and the ANSI A117.1.

Rating Factor 3: Soundness of Approach (35 Points)

This factor considers the approach you will use to conduct the work for which funding is requested. Your response will be evaluated based upon the following criteria:

(a) Statement of Work (10 Points)

The Statement of Work (SOW) must address the strategy, quality and time frames needed to carry out the project as proposed. Use 8 ½ x 11 sheet(s) to specify the activities, the tasks to be performed and by whom, and the specific dates for carrying out these activities and tasks. Further, the applicant must agree to undertake all the activities in accordance with the FY 2001 EOI-National Program, Model Codes Partnership Component and provide appropriate copies of documentation to the HUD Government Technical Representative (GTR) and Government Technical Manager (GTM) assigned to monitor the grant's implementation. In evaluating your SOW, HUD will consider the extent to which you:

(1) Provide a description of the design and objectives of your project and your plan for accomplishing those objectives. Please discuss the following:

(a) Project purpose

(b) Persons to be served

(c) Geographic areas to be served. Applicants that identify a specific number of states and local jurisdictions that will be targeted for the service/activities set forth in this project are expected to adopt consistent building codes as a result of work undertaken by this project and will be rated higher than those that do not.

(d) Proposed activities and who will conduct these activities, you or subrecipients, or consultants/contractors.

(e) The methodology you will use to carryout these activities and tasks.

(2) Provide a work plan that includes the time frame for conducting the activities, milestones for assessing progress and planned results to be achieved, including specific numbers of quantifiable products that will result from your work.

(3) Provide a well-outlined program with national coverage, including States and local governments to be assisted through workshops, one-on-one technical assistance and distance learning opportunities, and your strategy for moving them from education to implementation of the accessibility standards in their building codes.

(4) Provide outreach to states and local governments and technical staff to make them aware of the availability of your assistance using a variety of techniques and media, including your proposed method of distribution, formats and languages to be used in providing information to diverse audiences.

(5) Identifies how you will use your partnering organization(s) and affiliates to address the needs and demands identified and how they will be deployed in support of your work activities;

(6) Identifies specific format, methodology, languages, and materials that are needed to conduct education and outreach to assist State and local jurisdictions in adopting building codes that meet the accessibility standards of the Fair Housing Act, the Fair Housing Regulations, the Fair Housing Accessibility Guidelines, and the ANSI A117.1.

(b) Budget and Financial Controls (15 Points)

In reviewing this subfactor, HUD will consider the extent to which you will be able to (1) sustain your organization's financing to undertake your proposed activities and (2) maintain fiscal responsibility. As part of your response, you must provide a summary budget that identifies costs by category (for your assistance, an enumeration of the budget items and a sample Budget Narrative Work Plan Format are included). In evaluating this factor, HUD will review:

(1) The basis upon which you estimated costs for conducting each of your activities, including budgeted amounts per activity and task, as provided for in the budget work plan format and instructions found below, and that such amounts result in a cost effective plan considering the scope and end products to be achieved.

(2) The extent to which you can demonstrate there are financial controls and accounting procedures in place to account for HUD program funds, leveraged resources and work conducted by participating entities. When evaluating your application under

this sub-factor, HUD will take into account internal consistency in numeric responses submitted in your application, audit findings identified in your most recent audits or audit reports on file at HUD or in the OMB audit clearinghouse records, or other information available to the Department on your financial management capability.

HUD also will assess the soundness of your approach by evaluating the following:

The quality, thoroughness and reasonableness of the proposed cost estimates. As part of your response, your summary budget must identify costs by category in accordance with the following as outlined below in the Budget Narrative Work Plan:

(*A*) *Direct Labor* by position or individual, indicating the estimated hours per position, the rate per hour, estimated cost per staff position and the total estimated direct labor costs;

(*B*) *Fringe Benefits* by staff position, identifying the rate, the salary base on which the rate was computed, estimated cost per position, and the total estimated fringe benefit costs;

(*C*) *Material Costs* indicating the item, unit cost per item, the number of items to be purchased, estimated cost per item, and the total estimated material costs;

(*D*) *Transportation Costs*, as applicable. Where use of a local private vehicle is proposed, costs must indicate the proposed number of miles, rate per mile of travel identified by item, and estimated total private vehicle costs. Where air transportation is proposed, costs must identify the destination(s), number of trips and passengers per destination, estimated air fare and total estimated air transportation costs. If other transportation costs are listed, you must identify the other method of transportation selected, the number of trips to be made and destination(s), the estimated cost, and the total estimated costs for any other transportation costs;

(*E*) *Per diem*, as applicable. You must identify per diem or subsistence costs per travel day and the number of travel days, the estimated costs for per diem/subsistence and the total estimated transportation costs. You must use the Federal Travel Regulation for per diem rate for cities listed under ''Transportation Costs'' in your cost estimate;

(*F*) *Equipment charges*, if any. Equipment charges must identify the type of equipment, quantity, unit costs and total estimated equipment costs;

(*G*) *Consultant Costs*, if applicable. Indicate the type, estimated number of consultant days, rate per day, total estimated consultant costs per consultant and total estimated costs for all consultants;

(*H*) *Subcontract Costs*, if applicable. Indicate each proposed individual subcontract and amount. Each proposed subcontract must include a separate budget that identifies proposed costs by cost categories. In addition, your project budget must include any costs related to subcontract(s) with FHAP agencies and traditional civil rights organizations that account for activities related to the sub-recipient's role in the project. Your application must include a separate detailed budget for each subcontract. If you have selected sub-recipients or are submitting a joint application with one partner serving as the lead applicant, you must provide the actual subcontract costs;

(*I*) *Other Direct Costs* listed by item, quantity, unit cost, total for each item listed, and total direct costs for the award; and

(*J*) *Indirect Costs* must identify the type, approved indirect cost rate, base to which the rate applies and total indirect costs.

(*K*) If you do not have an indirect cost rate and/or you are a single funded organization (funded 100% from one source), you must be able to document direct allocations in all cost categories;

Budget Narrative Workplan Format

Name of Organization: _____ Budget Period:____months

Position or individual	Estimated hours	Rate per hour	Estimated cost	Federal cost	In-kind cost
		$	$	$	$
		$	$	$	$
		$	$	$	$
		$	$	$	$
Total Direct Labor	$			$	$
Fringe benefits	**Rate**	**Base**	**Estimated cost**	**Federal cost**	**In-kind cost**
F.I.C.A.		$	$	$	$
Unemployment Insurance [1]		$	$	$	$
Health Insurance [2]		$	$	$	$
Workers Compensation [1]		$	$	$	$
Total Fringe Benefits	$			$	$

[1] Rates may vary by State.
[2] Rates may vary by organization.

Materials	Quantity	Unit cost	Estimated cost	Federal cost	In-kind cost
		$	$	$	$
		$	$	$	$
		$	$	$	$
		$	$	$	$
Total materials	$			$	*$

*Materials/Equipment prices must be supported by vouchers/cash register receipts of same or similar item or lease quotes from vendor at time of budget negotiation.

Local travel	Mileage/fare	Rate/mile	Estimated cost	Federal cost	In-kind cost
		$	$	$	$
		$	$	$	$
Subtotal local travel	$			$	$
Air travel destination	Number of travelers	Roundtrip fare	Estimated cost	Federal cost	In-kind cost
	$	$	$	$	$
Subtotal Air Travel	$			$	$
Other travel items	Quantity	Unit cost	Estimated cost	Federal cost	In-kind cost
		$	$	$	$
		$	$	$	$
Subtotal other travel	$			$	$
Per diem subsistence	Number of travelers	Number of days/rate per day	Estimated cost	Federal cost	In-kind cost
			$	$	$
Per Diem Subsistence		$		$	$
Total Travel		$		$*	$

*All travel must be grant related and rates cannot exceed the Federal rate.

Equipment	Quantity	Unit cost	Estimated cost	Federal cost	In-kind cost
		$	$	$	$
		$	$	$	$
		$	$		$
Total Equipment costs	$			$**	$

**Lease/purchase of equipment must be supported by three quotes at time of budget negotiation.

Consultants	Days	Rate per day	Estimated cost	Federal cost	In-kind cost
		$	$	$	$
		$	$	$	$
		$	$	$	$
		$	$	$	$
		$	$	$	$

Consultants	Days	Rate per day	Estimated cost	Federal cost	In-kind cost
Total consultants	$			$***	$

*** Daily rate cannot exceed $440 per day unless waiver is obtained from Grant Officer.

Subcontracts	Rate/service	Quantity	Estimated cost	Federal cost	In-kind cost
			$	$	$
Total subcontracts		$		$*	$

* When individual subcontract fees exceed 10% of your grant amount, an itemized budget is required.

Other direct	Quantity	Unit cost	Estimated cost	Federal cost	In-kind cost
	$	$	$	$	
	$	$	$	$	
	$	$	$	$	
	$	$	$	$	
Total other direct	$			$	$

Indirect	Rate	Base	Estimated cost	Federal cost	In-Kind cost
	**		$	$	$
Total Indirect		$		$	$
Total estimated cost:					
Total cost	$			$	$
Amount To Enter on Form 424 Funding Matrix	$			$	$

** If you have a Federally negotiated indirect rate, you must use that rate as the appropriate base in this section. In all other instances, you must include your current overhead rate, if any, which has been tailored to your organization's operating budget. The rate and base used here is illustrative only.

(c) Description of Proposed Activities (10 Points)

Conduct your proposed activities in a manner (e.g., languages, formats, locations, distribution, use of minority and disability rights media) to best achieve the purpose of the activities and reach State and local building code officials who work with the State and local building code permit and review process. In reviewing this subfactor, HUD will evaluate:

(1) The extent to which your project is cost effective in achieving the anticipated results as well as an indication of other sources of funds that will be used on the project; and

(2) The extent to which you demonstrate your ability to conduct education and outreach to assist State and local jurisdictions in adopting building codes that meet the accessibility standards of the Fair Housing Act, the Fair Housing regulations, the Fair Housing Accessibility Guidelines, and the ANSI A117.1 technical standards.

Rating Factor 4: Leveraging Resources (10 Points)

This factor addresses your ability to secure financial or in-kind resources on a national scale that can be combined with HUD's program resources to achieve your project purpose. This would include State and local building code organizations, members of the building industry, disability advocacy groups, fair housing organizations, and other experts on accessibility laws. HUD encourages you to secure resources from sources other than what is requested from this program. Resources may include funding or in-kind contributions, such as work space or services or equipment, allocated to the purpose(s) of the proposal. Resources may be provided by governmental entities (including other HUD programs), public or private non-profit organizations, for-profit private organizations, or other entities willing to work with you.

To be considered for points under this factor you must submit documented evidence of firm commitments from the entities that are providing support for your program. Each letter of firm commitment must:

(i) Identify the organization(s) and/or individual(s) committing resources to the project,

(ii) Identify the amounts of the leveraged resources (the total FHIP and non-FHIP amounts must match those in your proposed budget submitted under Factor 3),

(iii) Describe how these resources will be used as part of your SOW,

(iv) Identify the date the leveraged resources will be made available and a statement indicating that they will be available for a period of time during the life of the award, and

(v) Any terms and conditions affecting the receipt of the leveraged resources other than receipt of a FHIP–EOI—Model Code Component award. The letter must be signed by the individual or organization official legally able to make commitments for the organization. If the resources are in-kind or donated goods, the commitment letter must indicate the dollar value of those resources.

To receive points for this factor, the letters of commitment must be submitted with the application and be dated no earlier than the publication date of this NOFA. The larger the extent of the leveraged resources made available to support your program, the greater number of points that you will receive under this factor. No points will be awarded for general letters of support endorsing the project from organizations and/or individuals (including elected officials) in your community. The

commitment must be firm, even if there is a condition that the commitment will only be made if an award is made under this NOFA.

If your project will not be supported by non-FHIP resources, then you will not receive any points under this factor. Points will be assigned based on the following scale:

Two (2) points will be awarded if your project will be supported by non-FHIP funds, but those funds are less than 5% of the project's total costs from non-FHIP funds. Four (4) points will be awarded if more than 5%, but less than 10% of the project's total costs are from non-FHIP funds.

Six (6) points will be awarded if more than 10% but less than 20% of the project's total costs are from non-FHIP funds.

Eight (8) points will be awarded if more than 20% but less than 30% of the project's total costs are from non-FHIP funds.

Ten (10) points will be awarded if more than 30% of the projects total costs are from non-FHIP funds.

Rating Factor 5: Comprehensiveness and Coordination (10 Points)

This factor addresses the extent to which you coordinate your activities with other groups and organizations that are doing similar work in order to avoid duplicate products and to create linkages to similar programs. In evaluating this factor HUD will consider the extent to which you demonstrate:

(a) How You Will Select, Coordinate and Work With Groups or Organizations in the Parts of the Country You Have Selected To Carry Out Your Proposed National Activities. (5 Points)

This includes a discussion on how FHIP-funded activities will augment and improve on-going efforts by State and local building code organizations, members of the building industry, disability advocacy groups, fair housing organizations, and other experts on accessibility laws in the target area. Applicants should coordinate their efforts with HUD's Community Development Technical Assistance grantees (HOME TA) through various communities' Consolidated Planning process (including the Analysis of Impediments to Fair Housing Choice). HOME TA State and local jurisdictions are to provide assistance to facilitate the exchange of information on program design and accessibility and building construction techniques.

(b) Outreach Activities To Promote Awareness of Project Activities. (5 Points)

This includes: (i) the identification of audiences in different parts of the country, (ii) a discussion of how your proposed activities will target audiences in different parts of the country, (iii) an explanation of how your project will promote coordination with various members of the building industry, disability advocacy groups, fair housing organizations, and other experts on accessibility laws in different parts of the country. At a minimum, your application should discuss procedures you will use to promote awareness of the services provided by your proposal.

(E) Applicant Notification and Award Procedures

(1) *Notification.* No information will be available to you during the period of HUD evaluation, approximately 90 days, except for notification in writing or by telephone if HUD determines your application is ineligible or has technical deficiencies. The selection will be announced by HUD when the evaluation and selection process is completed, and the award will be subject to final negotiations with HUD.

(2) *Negotiations.* In cases where HUD cannot successfully conclude negotiations with a selected applicant or a selected applicant fails to provide HUD with requested information, an award will not be made to that applicant. When this occurs, HUD may offer an award to the next highest ranked applicant, and negotiate with that applicant. HUD will negotiate only with the person identified in the application as the Director of the organization or if specifically identified in the application, the Project Director.

(3) *Information Release.* HUD will not discuss or negotiate with third parties (i.e., subcontractors, etc.).

(4) *Funding Instrument.* HUD expects to award a cost reimbursable or fixed-price cooperative or grant agreement to the applicant selected for award. HUD reserves the right to select the funding instrument it believes is most appropriate once the negotiations are completed.

(5) *Adjustments to Grant Amounts.* HUD may approve an application for an amount lower than the amount requested, fund only portions of your application, withhold funds after approval, and/or require that special conditions be added to your grant agreement, in accordance with 24 CFR 84.14, the requirements of this NOFA, or where:

(i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;

(ii) An ineligible activity is proposed in an otherwise eligible project; The past record of key personnel warrants special conditions, orThe Selecting Official determines it is in the best interests of the Program.

(6) *Performance Sanctions.* A grantee or sub-recipient or consultant/contractor failing to comply with the procedures set forth in its grant agreement will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the FHIP, and denial of further participation in programs of HUD or any other Federal agency.

V. Application Submission Requirements

Your application must include the following items and be completed/assembled in an organized manner:

SF–424 Application for Federal Assistance
HUD SF–424M—Funding Matrix
F–424A—Budget Information for Non-Construction Programs
SF–424B—Assurances for Non-Construction Programs
HUD–50070—Certification of Drug Free Workplace
HUD–50071—Certification of Payments to Influence Federal Transactions
SF–LLL—Disclosure of Lobbying Activities (if applicable)
HUD–2880—Applicant Recipient Disclosure/Update Form
HUD–2992—Certification Regarding Debarment and Suspension
HUD–2993—Acknowledgment of Receipt of Applications. (If you wish to confirm that HUD received your application, please complete this form. Completion of this form is optional.)
HUD–2994—Client Comment and Suggestion. (If you wish to offer comments on the Model Codes Partnership Component NOFA, please complete this form. Completion of this form is optional.)

In addition, your application must also contain the following items:

(A) *Transmittal Letter.* Your transmittal letter must identify: (1) the dollar amount requested, (2) the specific FHIP Initiative, and the specific Component for which you are applying.

(B) *Narrative Statement.* Respond completely to each of the five Factors for Award. Failure to provide the required information in the appropriate Factor will result in a lower score for that Factor—for example, information in the Project Abstract, although useful for

developing a project synopsis, will not be considered when evaluating applications. The narrative responses must not exceed 10 pages per factor (required attachments are not counted); text must be double-spaced and pages numbered consecutively (starting with Factor 1 through the end of Factor 5). Please use Courier 12 as the typeface or font for your narrative responses.

(C) *Audit Information.* You must submit a certification from an Independent Public Accountant or the cognizant government auditor, stating that the financial management system employed by you meets prescribed standards for fund control and accountability required by: OMB Circular A–133, Audits of States, Local Governments and Non-Profit Organizations; OMB Circular A–110 (as codified at 24 CFR part 84), Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and other Non-Profit Organizations; and/or OMB Circular A–102 (as codified at 24 CFR Part 85) Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. This information must contain the name and telephone number of the Independent Auditor, cognizant Federal auditor, or other audit agency, as applicable.

(D) *Page Limitation.* The narrative response for each of the five Factors for Award is limited to ten pages per factor (this page limit does not include the attachments or documents that may be required by a particular factor). Narrative pages exceeding the ten-page limit, including unrequested items, such as brochures and news articles, will not be considered. The text must be double-spaced (points will be deducted for failing to comply with this requirement), and pages must be numbered consecutively (from the beginning of the Factor 1 narrative to the end of the Factor 5 narrative). You are encouraged to use Courier 12 as the typeface or font for your narrative responses. You must respond fully to each factor. Failure to provide narrative responses to all factors, omitting requested information, and not having your application completed/assembled will result in full points not being allocated under the Factors for Award, which may significantly affect your overall score.

VI. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information you, the applicant, may want to provide. HUD may contact you, however, to clarify an item in your application or to correct technical deficiencies. You should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of your response to any rating factor. In order not to unreasonably exclude applications from being rated and ranked, HUD may, however, contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. Examples of curable (correctable) technical deficiencies include your failure to submit the proper certifications or your failure to submit an application that contains an original signature by an authorized official. In each case, HUD will notify you in writing by describing the clarification or technical deficiency. The notification from HUD to applicants will be by facsimile or by mail, return receipt requested. You must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 14 calendar days of the date of receipt of the HUD notification. If your deficiency is not corrected within this time period, HUD will reject your application as incomplete, and it will not be considered for funding.

VII. Findings and Certifications

(A) Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2539–0033. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) Environmental Impact

This NOFA is a policy document that provides for assistance in promoting fair housing and nondiscrimination. Accordingly, under 24 CFR 50.19(c)(3), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321).

(C) Environmental Review

In accordance with 24 CFR 50.19(b)(9) and (12) of HUD regulations, activities assisted under this program are categorically excluded from the requirements of the National Environmental Policy Act and are not subject to environmental review under related laws and authorities.

(D) Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating policies that have federalism implications and either impose substantial direct compliance costs on State and local governments and are not required by statute, or preempt State law, unless the relevant requirements of section 6 of the Executive Order are met. This NOFA does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

(E) Prohibition Against Lobbying Activities

You are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. You are required to certify, using the certification found at Appendix A to 24 CFR part 87, that you will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, you must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts. Tribes and tribally designated housing entities (TDHEs) established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but tribes and TDHEs established under State law are not excluded from the statute's coverage.

(F) Section 102 of the HUD Reform Act; Documentation and Public Access Requirements

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the

provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations in 24 CFR part 15.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (update information also reported on Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 5.

(3) *Publication of Recipients of HUD Funding.* HUD's regulations at 24 CFR 4.7 provide that HUD will publish a notice in the **Federal Register** on at least a quarterly basis to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to section 102(a) of the HUD Reform Act; or

(ii) Assistance that is provided through grants or cooperative agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

(G) Section 103 HUD Reform Act

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, subpart B, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

(H) Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance number is: 14.409.

Authority: Section 561 of the Housing and Community Development Act of 1987, as amended (42 U.S.C. 3616 note) (establishing the FHIP) and HUD's implementing regulations (24 CFR part 125).

Dated: July 19, 2001.

Floyd May,

Deputy Assistant Secretary for Operations and Management.

Appendix A

FHEO FIELD STRUCTURE—OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

FHEO Offices	Directors	Telephone No.	Area covered
Boston Hub: Thomas P. O'Neill,Federal Bldg., 10 Causeway Street, Room 375, Boston, MA 02222–1092	Marcella Brown	(617) 565–6977	MA, CT, ME, VT, RI.
New York City Hub: 26 Federal Plaza, New York, NY 10278–0068	Stanley Seidenfeld	(221) 264–1290	NY, NJ.
Philadelphia Hub: The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–0068	Wanda S. Nieves	(215) 656–0647	PA, MD, VA, DC, WV, DE.
Atlanta Hub: Richard B. Russell, Federal Building, 75 Spring Street, S.W., Atlanta, GA 30303–3388	Gregory King	(404) 331–5001	GA, AL, MS, FL, Puerto Rico, KY TN, NC, SC.
Chicago, Hub: Ralph H. Metcalfe, Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507	Barbara Knox	(312) 353–3776	IL, MN, MI, WI, OH, IN.
Fort Worth Hub: 1600 Throckmorton Street, Fort Worth, TX 76113–2905	[Vacant]	(817) 978–9271	TX, AR, OK, LA, NM.
Kansas City Hub: Gateway Tower II, 400 State Avenue, Kansas City, KS 66101–2406	Robbie Herndon	(913) 551–6958	KA, MO, NE, IA.
Denver Hub: 633 17th Street, Denver, CO 80202–3607	Sharon Santoya (Acting)	(303) 672–5434	CO, UT, WY, SD, ND, MT.
San Francisco Hub: Phillip Burton Federal Bldg., 450 Golden Gate Avenue, San Francisco, CA 94102–3448	Chuck E. Hauptman	(415) 436–6569	CA, HI, NV, AZ, Guam.
Seattle Hub: Seattle Federal Office Bldg., 909 1st Avenue, Suite 200, Seattle, WA 98104–1000	Judith Keeler	(206) 220–5170	WA, OR, ID.

Appendix B

Checklist for Completeness of Application

Use this checklist to ensure that your application includes all required items

Copy of SF–424 (Place a copy of the SF–424 and attached HUD–424–M (Matrix) on top of application package. This should not be the originals.

- Transmittal Letter
- Cover Page
- Checklist
- Project Abstract (briefly summarize purpose, activities, and population(s) and geographic areas to be served)
- Factor No. 1 Response
- Factor No. 2 Response
- Factor No. 3 Response

Attachments to Factor 3

- Proposed Statement of Work
- Proposed Budget Narrative and SF–424A
- Factor No. 4 Response
- Factor No. 5 Response

Attachments to Factor 5

- Partnership Component—Letter(s) of Firm Commitment

Application Forms and Certifications

- SF–424 Application for Federal Assistance and HUD–424–M (Matrix)
- SF–424–A Budget Information—Non-construction Programs
- SF–424 B Standard Assurances—Non-construction Programs
- Applicant Disclosure Report (HUD–2880)
- Certification of Payments to Influence Federal Transactions (HUD–50071)
- OMB SF–LLL Disclosure of Lobbying Activities
- Certification for a Drug-Free Workplace (HUD–50070)
- Certification of Consistency with the EZ/EC Strategic Plan (HUD–2990), if applicable
- Certification of Consistency with the Consolidated Plan (HUD–2991)
- Certification Regarding Debarment and Suspension (HUD–2992)
- List of Current or Pending Financial Agreements
- Acknowledgment of Application Receipt (HUD–2993)
- Client Comments and Suggestions (HUD–2994)

Cover Page FY 2000 FHIP Application

An application is submitted to the Component checked below. Submit an application and 5 copies.

Applicant Name_____

Catalog of Federal Domestic Initiative/Component Assistance No.

- Education and Outreach Initiative-National Program, Model Codes Partnership Component 14–409

Appendix C

FHAP Agency Names & Addresses

New England Region

Connecticut

State Agency:
Ms. Cynthia Watts Elder, Executive Director, Connecticut Commission on Human Rights and Opportunities, 21 Grand Street, Hartford, CT 06106, 541–3400

Massachusetts

State Agency:
Ms. Dorca Gomez, Chairperson, Massachusetts Commission Against Discrimination, Room 601, 1 Ashburton Place, 6th Floor, Boston, MA 02108, 727–3990

Localities:
Ms. Victoria L. Williams, Director, Boston Fair Housing Commission, City of Boston Office of Civil Rights, One City Hall Plaza, Suite 906, Boston, MA 02201, (617) 635–4408
Mr. Quoc Tran, Executive Director, Cambridge Human Rights Commission, 51 Inman Street, 2nd Floor, Cambridge, MA 02139, 349–4396

Rhode Island

State Agency:
Mr. Gene L. Booth, Executive Director, Rhode Island Commission for Human Rights, 10 Abbott Park Place, Providence, RI 02903–3768, 222–2661

Vermont

State Agency:
Mr. Harvey Golubock, Executive Director, Vermont Human Rights Commission, 135 State Street, Drawer 33, Montpelier, VT 05633–6301, (802) 828–2480

New York/New Jersey Region

New York

State Agency:
Ms. Evonne W. Gennings-Tolbert, Commissioner, New York State Division of Human Rights, 13th Floor, 55 West 125th Street, New York, NY 10027, 961–8671

Localities:
S. Ram Nagubandi, Acting Commissioner of Human Rights, Rockland County Commission on Human Rights, 50 Sanatorium Road, Building P, Pomona, NY 10970, (914) 364–2195

Mid-Atlantic Region

Delaware

State Agency:
Ms. Juana Fuentes-Bowles, Executive Director, Delaware Division of Human Relations, State Office Building, 820 North French Street, 4th Floor, Wilmington, DE 19801, 577–5050

Maryland

State Agency:
Mr. Henry B. Ford, Executive Director, Maryland Commission on Human Relations, William Donald-Schafer Towers, 6 St. Paul Street, Suite 900, Baltimore, MD 21202, 767–8600

Pennsylvania

State Agency:
Mr. Homer C. Floyd, Executive Director, Pennsylvania Human Relations Commission, 101 South Second Street, Suite 300, Harrisburg, PA 17105, 787–4410

Localities:
Mr. Charles F. Morrison, Director, Pittsburgh Human Relations Commission, 908 City-County Building, Pittsburgh, PA 15219, 255–2600
Ms. Diana Rivera-O'Bryant, Executive Director, Reading Commission on Human Relations, 815 Washington Street, Reading, PA 19601, (610) 655–6141
Ms. Cathy Ash, Executive Director, York City Human Relations Commission, 225 E. Princess Street, York, PA 17403, (717) 846–2926

Virginia

State Agency:
Ms. Lizbeth T. Hayes, Investigator Supervisor, Virginia Department of Professional and Occupational Regulation, Fair Housing Administration, Real Estate Board, 5th Floor, 3600 West Broad Street, Richmond, VA 23230–4917, 367–8530

West Virginia

State Agency:
Mr. Irvin B. Lee, Executive Director, West Virginia Human Rights Commission, 1321 Plaza East, Room 106, Charleston, WV 25301, 558–2616

Localities:
Mr. Marshall Moss, Executive Director, Charleston Human Rights Commission, 915 Quarrier Street, Suite 6, Charleston, WV 25301–1400, 348–6880
Ms. Sally M. Lind, Executive Director, Huntington Human Relations Commission, 824 Fifth Avenue, Suite 200, Huntington, WV 25701, 696–5592

District of Columbia

Mr. Charles F. Holman, III, Director, District of Columbia Office of Human Rights, 441 4th Street, NW., Washington, DC 20001, (202) 727–3900

Southeast/Caribbean Region

Florida

State Agency:
Mr. Derick Daniels, Executive Director, Florida Commission on Human Relations, Suite 240, 325 John Knox Road, Building F, Tallahassee, FL 32302, (850) 488–7082

Localities:
Ms. Kamala Corbett, Program Manager, Lee County Office of Equal Opportunity, PO Box 398, Ft. Myers, FL 33901, 335–2179
Ms. Charlene Taylor Hill, Executive Director, Jacksonville Equal Opportunity Commission, 421 West Church Street, Suite 705, Jacksonville, FL 32202, 630–4911
Mr. Albert Nelson, Executive Director, Orlando Human Relations Department, 400 South Orange Avenue, Orlando, FL 32801, 246–2122
Mr. Harry Lamb, Jr., Interim Director, Palm Beach County Office of Human Rights, 215 North Olive Avenue, Suite 130, West Palm Beach, FL 33401, 355–4883
Mr. Leon W. Russell, Human Rights Equal Opportunity Officer, Pinellas County Office of Human Rights, 315 Court Street, Clearwater, FL 34616, (727) 464–4880
Mr. Clarence Scott III, Community Affairs Director, St. Petersburg Human Relations Department, 175 5th Street North, Room 107, St. Petersburg, FL 33701, 893–7345
Mr. Charles F. Hearns, Administrator, Tampa Office of Human Rights, 102 East 7th Avenue, Tampa, FL 33602, 274–5835
Ms. Pat Frank, Chairperson, Hillsborough County Board of County Commissioners, County Center Building, 2nd Floor, 601 East Kennedy, Tampa, FL 33602, (813) 272–5735

Kentucky

State Agency:
Ms. Beverly Watts, Executive Director, Kentucky Commission on Human Rights, 332 West Broadway, 7th Floor, Louisville, KY 40202–0069, 595–4024

Localities:
Mr. William D. Wharton, Executive Director, Lexington-Fayette Urban County Human Rights Commission, 162 East Main Street, Suite 226, Lexington, KY 40507, 252–4931
Ms. Phyllis Atiba-Brown, Director, Louisville and Jefferson County Human Relations Commission, 410 West Chestnut Center, Suite 300a, Louisville, KY 40202, (502) 574–3631

Georgia

State Agency:
Mr. Gordon Joyner, Executive Director and Administrator, Georgia Commission on Equal Opportunity, 710 Cain Tower, Peachtree Center, 229 Peachtree Street, NE, Atlanta, GA 30303–1650, 656–1736

North Carolina

State Agency:
Mr. Eddie Lawrence, Executive Director, North Carolina Human Relations Commission, 217 West Jones Street, Raleigh, NC 27603, (919) 733–7996

Localities:
Mr. Willie Ratchford, Director, City of Charlotte/Mecklenburg County Community Relations Committee (Charlotte), 600 East Trade Street, Charlotte, NC 28202, 336–3380
Mr. Willie Ratchford, Director, City of Charlotte/Mecklenburg County Community Relations Committee (Mecklenburg County), 600 East Trade Street, Charlotte, NC 28202, 336–3380
Ms. Charlotte Caplan, Community Development Director, City of Asheville, 70 Court Plaza, Asheville, NC 28802, 259–5721
Mr. Robert Smith, Executive Director, Asheville/Buncombe County Community Relations Council, 50 South French Broad Avenue, Room 214, Asheville, NC 28801, 252–4713
Mr. Dan Love, Acting Director, Durham Human Relations Commission, 101 City Hall Plaza, Durham, NC 27701, 560–4107
Mr. John E. Shaw, Director, Greensboro Human Relations Department, 300 West Washington Street, Greensboro, NC 27401, 373–2038
Mr. Carl A. Byrd, Sr., Assistant County Manager, New Hanover Human Relations Commission, 402 Chestnut Street, Wilmington, NC 28401, (910) 341–7171
Ms. Annette Moore, Director, Orange County Human Relations Commission, P.O. Box 8181, 110 South Churton Street, Hillsborough, NC 27278, 967–9251
Mr. Eugene Williams, Director, Winston-Salem Human Relations Commission, 2301 North Patterson Avenue, Winston-Salem, NC 27105, (910) 727–2429

Tennessee

State Agency:
Mr. Julius Sloss, Executive Director, Tennessee Human Rights Commission, Capitol Boulevard Building, 530 Church Street, Suite 400, Nashville, TN 37243, (615) 741–5825

Localities:
Mr. Douglas Berry, Director, City of Knoxville Department of Community Development, 400 Main Street, Suite 503, City County Building, Knoxville, TN, 37902, (865) 215–2120

South Carolina

State Agency:
Mr. Jesse Washington, Commissioner, South Carolina Human Affairs Commission, 2611 Forest Drive, Columbia, SC 29240, (803) 737–7800

Midwest Region

Illinois

Localities:
Mr. Sandy Robinson, Manager, Springfield Human Relations Commission and Fair Housing, 227 South Seventh Street, Suite 204, Springfield, IL 62701, 789–2271

Indiana

State Agency:
Ms. Sandra Leek, Executive Director, Indiana Civil Rights Commission, Indiana Government Center North, 100 North Senate Avenue, Room N–103, Indianapolis, IN 46204–2773, 232–2600

Localities:
Ms. Ellen Krulewitch, Director, Elkhart Human Relations Commission, Municipal Building, 229 South Second Street, Elkhart, IN 46516, 294–5471
Ms. Leslie Raymer, Director, Fort Wayne Metropolitan Human Relations Commission, One Main Street, City-County Building, Room 680, Fort Wayne, IN 46802, 427–1146
Ms. Doris Carbins, Executive Director, Gary Human Relations Commission, 475 Broadway, Suite 401, Gary, IN 46402, 883–4151
Ms. Lynn Bloom, Executive Director, Hammond Human Relations Commission, 5925 Calumet Avenue, Room 320, Hammond, IN 46320, 853–6502
Mr. Lonnie Douglas, Executive Director, South Bend Human Relations Commission, 1440 County-City Building, South Bend, IN 46601, 235–9355

Michigan

State Agency:
Ms. Nanette Lee Reynolds, Director, Michigan Department of Civil Rights, Victor Office Center, 201 North Washington, Suite 700, Lansing, MI 48913, 335–3165

Ohio

State Agency:
Mr. G. Michael Payton, Acting Executive Director, Ohio Civil Rights Commission, 220 Parsons Avenue, Columbus, OH 43215–5385, (614) 466–2785
Localities:
Mr. Jerald L. Steed, Executive Director, Dayton Human Relations Council, 130 West 2nd Street, Suite 730, Dayton, OH 45402, 228–5854
Mr. Tim Dobeck, Law Director, Parma Law Department, City of Parma, 6611 Ridge Road, Parma, OH 44129–5593, 885–8132
Mr. Gary Williams, Assistant Director of Law, Shaker Heights Fair Housing Review Board, 3400 Lee Road, Shaker Heights, OH 44120, 491–1440

Southwest Region

Louisiana

State Agency:
Mr. John B. Shepard, Jr., Director, Louisiana Public Protection Division, One American Place, 301 Main Street, 6th Floor, Baton Rouge, LA 70801, (504) 342–7900

Oklahoma

State Agency:
Mr. Kenneth Kendricks, Interim Director, Oklahoma Human Rights Commission, 2101 North Lincoln, Room 480, Oklahoma City, OK 73105, 521–3441

Texas

State Agency:
Ms. Katherine A. Antwi, Interim Executive Director, Texas Commission on Human Rights, 6330 Highway 290 East, Suite 250, Austin, TX 78723, 437–3450
Localities:
Mr. Charles Gorham, Director, Austin Human Rights Commission 206 East 9th Street, 14th Floor, Austin, TX 78701, 499–3251
Mr. L. David Ramos, Interim Director, Department of Human Relations, 1201 Leopard Street, Corpus Christi, TX 78401, (361) 880–3196
Ms. Rosie L. Norris, Fair Housing Administrator, Dallas Office of Housing Compliance, Fair Housing Administrator, 1500 Marilla Street, Room 4D North, Dallas, TX 75201, 670–5334
Ms. Vanessa Ruiz Boling, Director, Fort Worth Human Relations Commission, 1000 Throckmorton Street, Fort Worth, TX 76102, (817) 871–7525
Mr. Jim Slaughter, Managing Director, Garland Office of Housing and Neighborhood Services, 210 Carver Street, Suite 202, Garland, TX 75040, 205–3313

Great Plains

Iowa

State Agency:
Ms. Corlis Moody, Executive Director, Iowa Civil Rights Commission, 211 East Maple Street, 2nd Floor, Des Moines, IA 50309, 281–8084
Localities:
Ms. Louise W. Lorenz, Director, Cedar Rapids Civil Rights Commission, City Hall, Second Floor, Cedar Rapids, IA 52401–1256, 398–5036
Ms. Judith J. Morrell, Director, Davenport Civil Rights Commission, 226 West 4th Street, Davenport, IA 52801, (319) 326–7888
Mr. Floyd A. Jones, Executive Director, Des Moines Human Rights Commission, East First and Des Moines Street, Des Moines, IA 50309, 283–4284
Ms. Kelly Larson, Executive Director, Dubuque Human Rights Department, City Hall Annex, Main Street, Dubuque, IA 52001–4932, 589–4190
Mr. Walter Reed, Jr., Executive Director, Waterloo Commission on Human Rights, 620 Mulberry Street, Suite 101, Waterloo, IA 50703, (319) 291–4441
Mr. Lionel J. Foster, Director, Mason City Human Rights Commission, 10 First Street, NW, Mason City, IA 50401, 421–3618
Mr. Rehelio A. Samuel, Executive Director, Lawrence Human Relations Commission, 6 East 6th Street, Room 315, Lawrence, KS 66044, (785) 832–3310
Ms. Joyce Keys, Director, Olathe Human Relations Commission, Housing and Human Services, City of Olathe, 100 West Santa Fe, PO Box 768, Olathe, KS 66061, 393–6260
Ms. Kaye J. Crawford, Acting Executive Director, Salina Human Relations Department, 300 West Ash, PO Box 736, Salina, KS 67401, (785) 826–7330
Mr. Elias L. Garcia, Executive Director, City of Topeka Human Relations Commission, 215 S.E. 7th Street, room 170, Topeka, KS 66603, (785) 368–3607

Missouri

State Agency:
Ms. Donna Cavitte, Executive Director, Missouri Commission on Human Rights, Department of Labor and Industrial Relations, PO Box 1129, 3315 West Truman Boulevard, Suite 212, Jefferson City, MO 65102, (573) 522–1019
Localities:
Mr. Michael Bates, Director, Kansas City (MO) Human Relations, City Hall, 4th Floor, 414 East 12th Street, Kansas City, MO 64106, 513–1836

Nebraska

State Agency:
Mr. Alfonzo Whitaker, Executive Director, Nebraska Equal Opportunity Commission, State Office Building, 5th Floor 301 Centennial Mall, South Lincoln, NE 68509–4934, 471–2024
Localities:
Ms. Kellie Paris-Asaka, Director, Omaha Human Relations Department, Omaha/Douglas Civic Center, 1819 Farnam Street, Suite 502, Omaha, NE 68183–0502, 444–5055

Rocky Mountains

Colorado

State Agency:
Mr. H. Rene Ramirez, Director, Colorado Civil Rights Division, 1560 Broadway, Suite 1050, Denver, CO 80202, 894–2997

North Dakota

State Agency:
Mr. Mark D. Bachmeier, Deputy Commissioner, North Dakota Department of Labor, State Capitol—13th Floor 600 E Boulevard Avenue, Department 406, Bismarck, ND 58505–0340, (701) 328–3708

Utah

State Agency:
Mr. Joseph Gallegos, Jr., Director, Utah Anti-Discrimination Division, 160 East 300 South, Salt Lake City, UT 84114, 530–6435

Pacific/Hawaii Region

Arizona

State Agency:
Ms. Virginia Herrera-Gonzales, Chief Counsel, Civil Rights and Conflict Resolution Section, Arizona Attorney General's Office, 1275 West Washington Street, Phoenix, AZ 85007–2926, 542–5263
Localities:

Mr. Lionel D. Lyons, Director, City of Phoenix Equal Opportunity Department, 251 West Washington St., 7th Floor, Phoenix, AZ 85003, 262–7716

California

State Agency:

Mr. Dennis Hayashi, Director, California Department of Fair Employment and Housing, 2014 ''T'' Street, Suite 210, Sacramento, CA 95812, 227–2873

Hawaii

State Agency:

Mr. William D. Hoshijo, Executive Director, Hawaii Civil Rights Commission, 830 Punchbowl Street, Room 411, Honolulu, HI 96813, 586–8636

Northwest/Alaska Region

State Agency:

Ms. Susan J. Jordan, Executive Director, Washington State Human Rights Commission, 711 South Capitol Way, #402, Olympia, WA 98504–2490, (360) 753–6770

Localities:

Ms. Bailey Delongh, Manager, King County Office of Civil Rights and Compliance, 400 Yesler Way, Room 260, Seattle, WA 98104–2628, 296–7592

Ms. Germaine Covington, Executive Director, Seattle Human Rights Department, Artic Building, 2nd Floor, 700 Third Avenue, Suite 250, Seattle, WA 98104–1849, 684–4500

Mr. Allen Correll, Executive Director, Tacoma Human Rights Department, 747 Market Street, Suite 836, Tacoma, WA 98402, (253) 591–5151

Appendix D

Forms and Certifications

BILLING CODE 4210–28–P

Application for Federal Assistance

OMB Approval No. 0348-0043

	2. Date Submitted (mm/dd/yyyy)	Applicant Identifier
1. **Type of Submission** **Application** ☐ Construction ☐ Non-Construction **Pre-application** ☐ Construction ☐ Non-Construction	3. Date Received by State (mm/dd/yyyy)	State Application Identifier
	4. Date Received by Federal Agency (mm/dd/yyyy)	Federal Identifier

5. Applicant Information

Legal Name	Organizational Unit
Address (give city, county, State, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. Employer Identification Number (EIN) (xx-yyyyyyy)

☐ — ☐

7. Type of Applicant (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Inter-municipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N Nonprofit
O Public Housing Agency
P. Other (Specify)

8. Type of Application:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify)

9. Name of Federal Agency

10. Catalog of Federal Domestic Assistance Number (xx-yyy)

☐ — ☐

Title:

11. Descriptive Title of Applicant's Project

12. Areas Affected by Project (cities, counties, States, etc.)

13. Proposed Project		**14. Congressional Districts of**	
Start Date (mm/dd/yyyy)	Ending Date (mm/dd/yyyy)	a. Applicant	b. Project

15. Estimated Funding

Complete form HUD-424-M, Funding Matrix

16. Is Application Subject to Review by State Executive Order 12372 Process?

a. **Yes** This pre-application/application was made available to the State Executive Order 12372 Process for review on:

Date (mm/dd/yyyy)_____

b. **No** ☐ Program is not covered by E.O. 12372

or ☐ Program has not been selected by State for review.

17. Is the Applicant Delinquent on Any Federal Debt?

☐ Yes If "Yes," attach an explanation ☐ No

18. To the best of my knowledge and belief, all data in this application/pre-application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number (Include Area Code)
d. Signature of Authorized Representative		e. Date Signed (mm/dd/yyyy)

Previous Edition Usable
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form **SF-424** (7/97)
Prescribed by OMB Circular A-102

Instructions for the SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043, Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency .

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For pre-applications, use a separate sheet to provide a summary description of this project.

Item Entry

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. **Use form HUD-4243-M, Funding Matrix**. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Budget Information — Non-Construction Programs

OMB Approval No. 0348-0044

Section A - Budget Summary

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

Section B - Budget Categories

6. Object Class Categories	Grant Program, Function or Activity				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a-6h)					
j. Indirect Charges					
k. **Totals** (sum of 6i and 6j)					
7. Program Income	$	$	$	$	$

Section C - Non-Federal Resources

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) **Totals**
8.	$	$	$	$
9.				
10.				
11.				
12. **Total** (sum of lines 8 - 11)	$	$	$	$

Section D - Forcasted Cash Needs

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. **Total** (sum of lines 13 and 14)	$	$	$	$	$

Section E - Budget Estimates of Federal Funds Needed for Balance of the Project

	Future Funding Periods (Years)			
(a) Grant Program	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. **Total** (sum of lines 16-19)	$	$	$	$

Section F - Other Budget Information

21. Direct Charges	22. Indirect Charges

23. Remarks

Instructions for the SF-424A

Public Reporting Burden for this collection of information is estimated to average 3.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency .

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the later case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a **single** Federal grant program (Federal Domestic Assistance Catalog number) and **not requiring** a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a **single** program **requiring** budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in **Column** (a) and the respective catalog number on each line in Column (b).

For applications pertaining to **multiple** programs where one or more programs **require** a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (a) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f) Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

OMB Approval No. 0348-0040

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency .

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awardin g agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.O. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 36701 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a and 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (e) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of

project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the national Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 or OMB Circular No. A-133, Audits of Institutions of Higher Learning and other Non-profit Institutions.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official	Title
Applicant Organization	Date Submitted

OMB Approval (pending)

Federal Assistance Funding Matrix

The applicant must provide the funding matrix shown below, listing each program for which Federal funding is being requested, and complete the certifications.

Program*	Applicant Share	Federal Share	State Share	Local	Other	Program Income	Total
Grand Totals							

* For FHIPs, show both initiative and component

Instructions for the HUD-424-M

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This form is to be used by applicants requesting funding from the Department of Housing and Urban Development for application submissions for Federal assistance.

Enter the following information:

Program: The HUD funding program you are applying under.

Applicant Share: Enter the amount of funds or cash equivalent of in-kind contributions you are contributing to your project or program of activities.

Federal Share: Enter the amount of HUD funds you are requesting with your application.

State Share: Enter the amount of funds or cash equivalent of in-kind services the State is contributing to your project or program of activities.

Local Share: Enter the amount of funds or cash equivalent of in-kind services your local government is contributing to your project or program of activities.

Other: Enter the amount of other sources of private, non-profit, or other funds or cash equivalent of in-kind services being contributed to your project or program of activities.

Program Income: Enter the amount of program income you expect to generate and contribute to this program over the life of your award.

Total: Please total all columns and fill in the amounts.

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Signature X	Date

form **HUD-50070** (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

Certification of Payments to Influence Federal Transactions

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title

Signature	Date (mm/dd/yyyy)

Previous edition is obsolete

form HUD 50071 (3/98)
ref. Handboooks 7417.1, 7475.13, 7485.1, & 7485.3

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development

OMB Approval No. 2510-0011 (exp. 3/31/2003)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code): ( ) -	2. Social Security Number or Employer ID Number: - -
3. HUD Program Name	4. Amount of HUD Assistance Requested/Received

5. State the name and location (street address, City and State) of the project or activity:

Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).
☐ **Yes** ☐ **No**

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD) , involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9
☐ **Yes** ☐ **No.**

If you answered "**No**" to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form.
However, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(**Note**: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

(**Note**: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.
I certify that this information is true and complete.

Signature: X	Date: (mm/dd/yyyy)

Public reporting burden for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions

Overview.

A. Coverage. You must complete this report if:
   (1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;
   (2) You are updating a prior report as discussed below; or
   (3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

B. **Update reports (filed by "Recipients" of HUD Assistance): General.** All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

Line-by-Line Instructions.

Applicant/Recipient Information.
All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

Part I. Threshold Determinations - Applicants Only

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

Part II. Other Government Assistance and Expected Sources and Uses of Funds.

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of

funds typically include (but are not limited to) foundations and private contributors.

Part III. Interested Parties.

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).
   Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

Notes:

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Certification Regarding Debarment and Suspension

U.S. Department of Housing and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was place when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant	Date
Signature of Authorized Certifying Official	Title

Acknowledgment of Application Receipt

U.S. Department of Housing and Urban Development

Type or clearly print the Applicant's name and full address in the space below.

(fold line)

Type or clearly print the following information:

Name of the Federal Program to which the applicant is applying: _____

To Be Completed by HUD

☐ HUD received your application by the deadline and will consider it for funding. In accordance with Section 103 of the Department of Housing and Urban Development Reform Act of 1989, no information will be released by HUD regarding the relative standing of any applicant until funding announcements are made. However, you may be contacted by HUD after initial screening to permit you to correct certain application deficiencies.

☐ HUD did not receive your application by the deadline; therefore, your application will not receive further consideration. Your application is:

- ☐ Enclosed
- ☐ Being sent under separate cover

Processor's Name _____

Date of Receipt _____

form **HUD-2993** (2/99)

Disclosure of Lobbying Activities

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse side for Instructions and Public Reporting burden statement)

1. Type of Federal Action	2. Status of Federal Action	3. Report Type
☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	☐ a. initial filing ☐ b. material change **For Material Change Only** year (yyyy) _____ quarter _____ date of last report (mm/dd/yyyy)_____

4. Name and Address of Reporting Entity	5. If Reporting Entity in No. 4 is Subawardee, enter Name and Address of Prime
☐ Prime ☐ Subawardee Tier _____ , if known: **Congressional District,** if known	 **Congressional District,** if known
6. Federal Department/Agency	**7. Federal Program Name/Description** **CFDA Number,** if applicable _____
8. Federal Action Number, if known	**9. Award Amount,** if known $
10a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI)	**b. Individuals Performing Services** (including address if different from No. 10a.) (last name, first name, MI)

(attach continuation sheet(s) if necessary)

11. Amount of Payment (check all that apply)	13. Type of Payment (check all that apply)
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other (specify)_____
12. Form of Payment (check all that apply) ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11

(attach continuation sheet(s) if necessary)

15. Continuation sheets attached ☐ **Yes** ☐ **No**

16. Information requested through this form is authorized by Sec.319, Pub. L. 101-121, 103 Stat. 750, as amended by sec. 10; Pub. L. 104-65, Stat. 700 (31 U.S.C. 1352). This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature _____

Print Name _____

Title _____

Telephone No. _____

Date (mm/dd/yyyy) _____

Federal Use Only:

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Standard Form-LLL (7/97)

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient, Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide specific and detailed description of the services that the lobbist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just the time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) are attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public Reporting Burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency .

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

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Standard Form-LLL (7/97)

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

Client Comments and Suggestions

U.S. Department of Housing and Urban Development

You are our Client! Your comments and suggestions, please!

The Department of Housing and Urban Development in preparing this Notice of Funding Availability and application forms, has tried to produce a more user friendly, customer driven funding process. Please let us have your comments and recommendations for improvements to this document. You may leave this form attached to your application, or feel free to detach the form and return it to:

The Department of Housing and Urban Development
Office of Grants Management and Compliance
Room 2182
451 7th Street, SW
Washington, DC 20410

Please Provide Comments on HUD's Efforts:

The NOFA (insert title)_____

is: (please check one)

(a) ☐ is clear and easily understandable

(b) ☐ better than before, but still needs improvement (please specify)

(c) other (please specify)

The application form (insert title)_____

is: (please check one)

(a) ☐ is acceptable given the volume of information required by statute and the volume of information required for accountability in selecting and funding projects.

(b) ☐ is simpler and more user-friendly than before, but still needs work (please specify).

(c) other comments (please specify)

Name & Organization (Optional):

Are additional pages attached? ☐ Yes ☐ No

form **HUD-2994** (2/2001)

[FR Doc. 01–18568 Filed 7–24–01; 8:45 am]
BILLING CODE 4210–28–C

Federal Register

Wednesday,
July 25, 2001

Part V

Department of Education

Office of Elementary and Secondary Education—School Improvement Programs—Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program; Notice

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education—School Improvement Programs—Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program

AGENCY: Department of Education.

ACTION: Notice of final funding priorities for fiscal year (FY) 2001.

SUMMARY: The Secretary announces final funding priorities for the Fiscal Year (FY) 2001 grant competition under the Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program. After funding continuation awards, the Secretary will use the remaining funds available under the program to support new grants that meet either of the following absolute priorities as described in this notice:

Absolute Priority 1—The project focuses entirely on activities in one or more of the following areas: (a) aquaculture, (b) prisoner education initiatives, (c) waste management innovation, (d) computer literacy, (e) Big Island astronomy, and (f) indigenous health programs; or

Absolute Priority 2—The project focuses entirely on Native Hawaiian language revitalization activities, including K–12 language immersion programs, preservice and in-service teacher training programs, and programs designed to increase the number of Native Hawaiian teachers.

EFFECTIVE DATE: August 24, 2001.

FOR FURTHER INFORMATION CONTACT: Lynn Thomas, (202) 260–1541. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Note: This notice of final priority does not solicit applications. A notice inviting applications under this competition is published elsewhere in this issue of the **Federal Register**. The notice inviting applications will specify the deadline date which applications for an award must be mailed or hand-delivered to the Department.

SUPPLEMENTARY INFORMATION: The Secretary published a notice of proposed priorities for this competition in the **Federal Register** on June 11, 2001 (66 FR 31216–31218). This notice announces the final priorities for the competition.

In response to the notice of proposed priorities, the Secretary received comments from three organizations. One commenter strongly supported aquaculture as an area for Absolute Priority 1 and recommended no changes to the priority. A summary of the other comments, responses to the comments, and any changes to the priorities is provided below.

Analysis of Comments and Changes

Comment: One commenter expressed concern that the amount of funding that would be available to support activities under Absolute Priority 1, and prisoner education in particular, was too limited.

Response: After funding continuation awards and supporting activities in the significant area of Native Hawaiian language revitalization, the Secretary anticipates that there will be approximately $900,000 to support activities under Absolute Priority 1. The actual amount of funding to be awarded between the two absolute priorities and among the categories in Absolute Priority 1 will be determined on the basis on the quality of the applications received. Additional resources under this program are not available.

Changes: None.

Comments: A second commenter suggested that all grantees seeking funds under the first proposed absolute priority be required to include as part of their projects preservice and in-service teacher training.

Response: While preservice and in-service teacher training are allowable activities under the program, the Secretary believes that applicants should have the flexibility to seek funds to support any one or more of the four statutory purposes—curricula development, preservice teacher training, in-service teacher training, or teacher recruitment.

Changes: None.

Comment: The second commenter also proposed some editorial revisions to portions of the first proposed absolute priority to clarify the intent of the priority.

Response: The proposed editorial revisions clarify the intent of the first proposed absolute priority but do not substantively change the priority. The suggested changes are reflected in the final priority.

Changes: Minor editorial revisions are reflected in the aquaculture, Big Island astronomy, and indigenous health sections of Absolute Priority 1.

Comment: The second commenter also suggested that the second proposed absolute priority specifically state that the Native Hawaiian language revitalization activities include native speaker programs, the use of media to provide enrichment and community participation, and other specific activities.

Response: The Secretary believes that it is important to give applicants flexibility in developing Native Hawaiian language revitalization proposals. The specific activities suggested by the commenter may be included in a proposal that addresses the second absolute priority, but are not required.

Changes: None.

Absolute Priorities: Under 34 CFR 75.105(c)(3) and the Native Hawaiian Education Act, the Secretary gives an absolute preference to applicants that meet either of the following absolute priorities, and funds under this competition only those applications that meet either of these priorities:

Absolute Priority 1—The project focuses entirely on activities in one or more of the following six areas:

(a) *Aquaculture*—to support programs that concentrate on aquaculture, the science of the cultivation of marine life and its connections to Native Hawaiian traditions. A comprehensive aquaculture program will assist Native Hawaiian students in reaching challenging standards in science and mathematics in an intellectually stimulating environment and give them a greater understanding and appreciation of their Native Hawaiian culture.

(b) *Prisoner education initiatives*—to support programs that target juvenile offenders or youth at risk of becoming juvenile offenders and that involve comprehensive and culturally sensitive strategies for reaching the target population through family counseling, basic education/jobs skills training, and the involvement of community elders as mentors.

(c) *Waste management innovation*—to study and document traditional Hawaiian practices of sustainable waste management and to prepare teaching materials for educational purposes and for demonstration of the use of Native Hawaiian plants and animals for waste treatment and environmental remediation.

(d) *Computer literacy*—to support curriculum development, teacher training and model programs designed to increase computer literacy and access for Native Hawaiian elementary and secondary school students;

(e) *Big Island astronomy*—to support the development of educational programs in Big Island astronomy for Native Hawaiian elementary and secondary school students to assist them in reaching challenging science and mathematics standards and to encourage them to enter the field of astronomy

with a firm base in Native Hawaiian traditions. A comprehensive Big Island astronomy program will assist Native Hawaiian students in reaching challenging standards in science and mathematics in an intellectually stimulating environment and give them a greater understanding and appreciation of their Native Hawaiian culture; and

(f) *Indigenous health programs*—to support curriculum development, teacher training, and instruction activities that will foster a better understanding and knowledge of Native Hawaiian traditional medicine and preventative health practices, particularly among Native Hawaiian elementary and secondary students.

Absolute Priority 2—The project focuses entirely on Native Hawaiian language revitalization activities, including K–12 language immersion programs, preservice and in-service teacher training programs, and programs designed to increase the number of Native Hawaiian teachers.

Program Authority: Section 9209 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 7909).

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Dated: July 20, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–18656 Filed 7–24–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No: 84.297]

The Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

Purpose of Program: The Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program supports—

(1) *Curricula Development*—the development of curricula to address the needs of Native Hawaiian students, particularly elementary and secondary students, which may include programs of instruction conducted in the Native Hawaiian language and mathematics and science curricula incorporating the relevant application of Native Hawaiian culture and traditions;

(2) *Preteacher Training*—the development and implementation of preservice teacher training to ensure that student teachers within the State, particularly those who are likely to be employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions;

(3) *Inservice Teacher Training*—the development and implementation of inservice teacher training to ensure that teachers, particularly those employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions; and

(4) *Teacher Recruitment*—the development and implementation of teacher recruitment programs to enhance teacher recruitment within communities with a high concentration of Native Hawaiian students and to increase the numbers of teachers who are of Native Hawaiian ancestry.

Consistent with these statutory purposes, the Secretary has established absolute priorities that will govern the distribution of funds under the program.

Eligible Applicants: Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language.

Deadline for Transmittal of Applications: August 24, 2001.

Deadline for Intergovernmental Review: August 6, 2001.

Available Funds: Approximately $1,400,000. Of this amount, approximately $900,000 will be used to award grants that meet Absolute Priority 1 (aquaculture, prisoner education initiatives, waste management innovation, computer literacy, Big Island astronomy, or indigenous health programs); approximately $500,000 will be used to award a grant that meets Absolute Priority 2 (Native Hawaiian language revitalization).

Estimated Number of Awards: Three awards under Absolute Priority 1 and one award under Absolute Priority 2.

Estimated Average Size of Awards: Approximately $300,000 for the awards granted under Absolute Priority 1; approximately $500,000 for the award granted under Absolute Priority 2.

Note: These estimates are projections for the guidance of potential applicants. The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 81, 82, 85, 86 97, 98, and 99.

Absolute Priorities: The Secretary has published elsewhere in this issue of the **Federal Register** a notice of final priorities, which establishes absolute priorities in the following areas under the Curriculum Development, Teacher Training and Recruitment Program:

Absolute priority 1—The project focuses entirely on activities in one or more of the following areas—(a) aquaculture, (b) prisoner education initiatives, (c) waste management innovation, (d) computer literacy, (e) Big Island astronomy, and (f) indigenous health programs.

Absolute priority 2—The project focuses entirely on Native Hawaiian language revitalization activities, including K–12 language immersion programs, preservice and inservice teacher training programs, and programs designed to increase the number of Native Hawaiian teachers.

Under 34 CFR 75.105(c)(3) and the Native Hawaiian Education Act, the Secretary will fund under this competition only applicants that meet either of the absolute priorities.

Statutory Priorities: In accordance with section 9209(b) of the Elementary and Secondary Education Act, the Secretary gives priority to awarding grants for activities that —

(1) Focus on the needs of at-risk youth; or

(2) Employ a program of instruction conducted in the Native Hawaiian language.

These statutory priorities are embedded in the selection criteria for this competition.

Selection Criteria: The Secretary will use the following selection criteria in 34 CFR 75.210 to evaluate applications under this competition. (The specific selection criteria and factors that will be

used in evaluating applications are detailed in the application package). The maximum score for all of the selection criteria is 100 points.

The maximum points for each criterion is as follows:

(a) *Significance*—15 points

(b) *Quality of Project Design*—35 points

(c) *Quality of Project Personnel*—10 points

(d) *Adequacy of Resources*—5 points

(e) *Quality of Management Plan*—15 points

(f) *Quality of the Project Evaluation*—20 points

For Applications and Information Contact: Mrs. Lynn Thomas, (202) 260–1541, U.S. Department of Education, 400 Maryland Avenue, SW., FOB6, Room 3C124, Mail Stop 6140, Washington, DC 20202. The e-mail address for Mrs. Thomas is: *lynn.thomas@ed.gov*

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Individuals with disabilities may obtain a copy of the application package in an alternative format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 7909.

Dated: July 20, 2001.

Thomas M. Corwin,

Acting Deputy Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–18657 Filed 7–24–01; 8:45 am]

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Federal Register

Wednesday,
July 25, 2001

Part VI

The President

Proclamation 7456—Parents' Day 2001

Federal Register
Vol. 66, No. 143
Wednesday, July 25, 2001

Presidential Documents

Title 3—

The President

Proclamation 7456 of July 21, 2001

Parents' Day 2001

By the President of the United States of America

A Proclamation

Being a parent is the most important job in the world. As we hold a newborn in our arms or embrace an older adopted child, the promise we make in our hearts to love, protect, and nurture our children stays with us and with them forever. We are eternally linked to the children whom we are blessed to parent and to the generations before us who helped shape our lives.

Both mothers and fathers play a vital role in giving children the best possible start in life. As parents, we provide our children with the love and support they need to grow up to be caring individuals and responsible citizens. The care we express and the values we instill help our children achieve their greatest potential and ultimately will determine the future of our Nation.

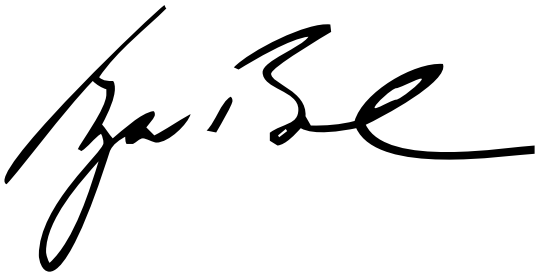
Unfortunately, children who lack a strong parental presence in their lives can suffer over both the short and the long term. Study after study has demonstrated that children who grow up without both parents in their home are more likely to end up in poverty, drop out of school, become addicted to drugs, have a child out of wedlock, or go to prison. Single-parented children who avoid these unfortunate outcomes will nevertheless miss out on the balance, unity, and stability that a two-parent family can bring.

Recognizing that strong families make a strong America, I have committed my Administration to help parents do better by encouraging the formation and maintenance of loving families. We have proposed several major initiatives designed to promote responsible fatherhood, strengthen families, and make adoption easier and more affordable, so that every child has a better chance of living in a stable and loving home. We also have achieved widespread support for the historic reform of our public education system that will significantly improve our schools. This improvement is founded on the core principles of my education reform agenda, which include: accountability; flexibility; local control; and more choices for parents.

Government bears an important responsibility to provide excellent schools and educational programs that leave no child behind; but Government cannot replace the love and nurturing of committed parents that are essential for a child's well-being. Many community organizations, centers of faith, and schools offer services and programs to help parents improve their child-rearing skills. As we observe Parents' Day, I encourage all Americans to join me in honoring the millions of mothers and fathers, biological and adoptive, foster parents, and stepparents, whose selfless love and hard-working efforts are building better lives for their children and our Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States and consistent with Public Law 103–362, do hereby proclaim Sunday, July 22, 2001, as Parents' Day. I urge all Americans to express their love, respect, support, and appreciation to their parents, and I call upon citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of July, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



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Federal Register

Vol. 66, No. 143

Wednesday, July 25, 2001

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FEDERAL REGISTER PAGES AND DATE, JULY

34783–35076 2
35077–35364 3
35365–35528 5
35529–35750 6
35751–35888 9
35889–36144 10
36145–36440 11
36441–36694 12
36695–36906 13
36907–37102 16
37103–37396 17
37397–37574 18
37575–37880 19
37883–38136 20
38137–38348 23
38349–38522 24
38523–38890 25

CFR PARTS AFFECTED DURING JULY

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.

3 CFR

Proclamations:
7453 35361
7454 35365
7455 37103
7456 38889

Executive Orders:
13129 (See Notice of June 30, 2001 35363
13220 35527

Administrative Orders:
Memorandum of July 4, 2001 37105
Notices:
Notice of June 30, 2001 35363
Presidential Determinations:
No. 2001–20 of July 2, 2001 37109
No. 2001–21 of July 4, 2001 37111

5 CFR

575 37883
831 38523
842 38523

Proposed Rules:
1650 36494

7 CFR

1 36907
20 38526
210 38349
220 38349
300 37397
301 ..... 37113, 37401, 37575
319 38137
353 ..... 37114, 37397
800 ..... 35751, 36834
930 ..... 35889, 35891
1218 37117
1773 ..... 37405, 37406

Proposed Rules:
274 36495
300 37425
318 37425
319 36892
400 36951
1219 ..... 36870, 36886

8 CFR

3 37119

Proposed Rules:
211 37429
212 37429

9 CFR

74 37125
94 36695

Proposed Rules:
113 37194
145 37919
147 37919
301 35112
303 35112
317 35112
318 35112
319 35112
320 35112
325 35112
331 35112
381 35112
417 35112
430 35112

10 CFR

72 38528
150 35529
170 35529
171 35529
600 34783

Proposed Rules:
20 36502
50 37432
430 ..... 36960, 38822

11 CFR

Proposed Rules:
100 38576
104 38576
113 38576

12 CFR

1 ..... 34784, 36834
5 34792
7 ..... 34784, 36834
9 34792
23 ..... 34784, 36834
201 35529
506 37406
552 37407
560 37406
563 37406
566 37406
584 37406
613 36908

Proposed Rules:
7 34855
25 37602
228 37602
345 37602
563 37602
950 36715
952 36715

13 CFR

123 38528

14 CFR

23 37128
25 ..... 36697, 37408
39 ..... 34798, 34800, 34802, 35077, 35371, 35530, 35532, 35533, 35535, 35536, 35538,

35896, 36145, 36146, 36149, 36150, 36152, 36154, 36441, 36443, 36445, 36447, 36449, 36450, 36452, 36453, 36455, 36456, 36699, 37130, 37271, 37884, 38139, 38141, 38144, 38145, 38350, 38354, 38357, 38360, 38361, 38365, 38532, 38533, 38535, 38536
71 .....34807, 35080, 35540, 36700, 36908, 38146, 38147, 38148, 38149, 38367, 38368, 38538
73.....34808
97.....37132, 37134
107.....37274
108.....37330
139.....37274
1214.....37410

Proposed Rules:
13.....37520
39 .....35912, 36215, 36509, 36513, 36516, 36520, 37197, 37435, 38168, 38170, 38173, 38176, 38178, 38180, 38183, 38185, 38188, 38191, 38193, 38195, 38198, 38200, 38203, 38206, 38209, 38211, 38214, 38217, 38220, 38583, 38585, 38587, 38588
61.....37520
71 .....35914, 35916, 35917, 38223, 38224, 38225, 38385, 38386
91.....37520
119.....37520
125.....37520
135.....37520
142.....37520
183.....38387

15 CFR

303.....34810
740.....36676
742.....36676
746.....36676
772.....36676, 36909
774.....36676, 36909

16 CFR

801.....35541
802.....35541
803.....35541
1000.....38369

17 CFR

200.....35836, 38370
210.....38149
211.....36457, 38149
240.....35836, 38370
249.....36701
270.....36156
274.....36156

Proposed Rules:
41 .....34864, 36218, 37932
240.....34864, 38390

19 CFR

24.....34813

Proposed Rules:
177.....37370

21 CFR

129.....35373
165.....35373
172.....38152
510.....36162
520.....35755, 35898
522.....35756
556.....35544
558.....36162
862.....38786
864.....38786
866.....38786
868.....38786
870.....38786
872.....38786
874.....38786
876.....38786
878.....38786
880.....38786
882.....38786
884.....38786
886.....38786
888.....38786
890.....38786
892.....38786

Proposed Rules:
101.....38591
864.....38226

22 CFR

41.....38153, 38539
42.....38153
124.....35899
125.....35899
126.....35899, 36834

24 CFR

27.....35846
207.....35070
290.....35846
598.....35850
599.....35850

Proposed Rules:
1000.....37098

26 CFR

1.....37886, 37897
20.....38544
602.....38544

Proposed Rules:
1.....35112

27 CFR

4.....37576, 38547
5.....38547
7.....38547
17.....38547
19.....38547
20.....38547
22.....38547
24.....37576, 38547
25.....38547
26.....38547
70.....38547
250.....38547
251.....38547

Proposed Rules:
4.....37609
20.....37198

28 CFR

0.....37902
2.....37136
16.....35374
27.....37902
1100.....38514

Proposed Rules:
16.....37939
25.....35567

29 CFR

1926.....37137
2520.....34994, 36368
2560.....35886
4022.....36702
4044.....36702

Proposed Rules:
102.....38594
1904.....35113

30 CFR

57.....35518

Proposed Rules:
57.....35521
250.....37611

31 CFR

29.....36703
515.....36683
535.....38553
538.....36683
540.....38554
550.....36683
560.....36683

Proposed Rules:
356.....38600

32 CFR

668.....36711

Proposed Rules:
808.....36523

33 CFR

100 .....34819, 34821, 34823, 34825, 34826, 34828, 37414, 38154
117 .....34829, 35901, 36162, 36163, 36164, 36165, 36466, 37139, 37140, 37578, 37579, 38155, 38370
165 .....34829, 34831, 34832, 34834, 34836, 34838, 34839, 34841, 34842, 34844, 34846, 34848, 35080, 35544, 35756, 35758, 36165, 36167, 36168, 37141, 37416, 37580, 37581, 37582, 37584, 37585, 38155, 38157, 38371, 38372

Proposed Rules:
100.....37200
117 .....36525, 36527, 36529, 37615
151.....36530
153.....36530
164.....36223

36 CFR

51.....35082

Proposed Rules:
219.....35918
294.....35918
1228.....37202

37 CFR

202.....37142

Proposed Rules:
1.....35763
260.....38226

38 CFR

17.....36467
20 .....35902, 37150, 38158

Proposed Rules:
3.....37940
4.....37940
17.....36960

39 CFR

111.....37151

Proposed Rules:
111.....36224
3001.....38602

40 CFR

52 .....35374, 35546, 35903, 35906, 36035, 36170, 36913, 36919, 36921, 37151, 37154, 37418, 37587, 37904, 37906, 37908, 37914, 37916, 38561, 38565
60.....36473
62.....35546
63 .....35083, 35087, 36173, 36924, 37591
80.....37156
81.....34994, 36476
82.....37752
152.....37772
174 .....37772, 37817, 37830
180 .....36477, 36481, 37593
197.....38374
261.....35379
264.....35087
300 .....34849, 35385, 35547, 36946, 38569

Proposed Rules:
9.....35572
51.....38108
52 .....34864, 34878, 35573, 35920, 36226, 36370, 36532, 36542, 36656, 36717, 36963, 36964, 37203, 37204, 37439, 37941, 37942, 37943, 38229, 38231
60.....36547
61.....35115, 38396
63 .....35115, 35124, 35126, 35326, 36228, 36836
70.....34901
81.....38603, 38608
82.....38064
122.....35572
123.....35572
124.....35572
125.....35572
141.....37617
142.....37617
174.....37855
180.....35921
194.....36723
261.....36725
264.....35124, 35126
265.....35126
266.....35126
268.....38405
270.....35126
300 .....34906, 35395, 36966, 37439, 38610
450.....35576

41 CFR

101-6.....37728
102-3.....37728

42 CFR

Proposed Rules:
100.....36735
416.....35395
482.....35395
485.....35395

43 CFR

Proposed Rules:
2.....36966

44 CFR

64.....36947

45 CFR

Proposed Rules:
46.....35576

46 CFR

Ch. IV.....37419
310.....36175
401.....36484

Proposed Rules:
4.....36530
25.....36223
27.....36223
520.....37442

47 CFR

1.....35387, 36177
36.....35107
53.....36206
54.....38375
64.....36711
73 .....35107, 35387, 35388, 35760, 36949, 37420, 37599
101.....35107

Proposed Rules:
1.....37943
2.....35399
20.....36989
25.....35399
51.....38611
64.....35765, 37631
73 .....35406, 35407, 35767, 35768, 35925, 37442, 37443, 37632, 37633, 38410
101.....35399
211.....38411
213.....38411

48 CFR

1804.....36490
1852.....36490

49 CFR

1.....38379
573.....38159
578.....38380

Proposed Rules:
171.....35155
571.....35177
573.....38247
575.....35179

50 CFR

17.....35547, 36078
223.....37599
300.....36208
600.....35388, 38162
622.....35761
635.....36711, 37421
648 .....35566, 36208, 37165, 38165
660 .....35388, 36212, 38162, 38571, 38573
679 .....35761, 35911, 36213, 36492, 37166, 37167, 37600, 38166, 38167, 38573, 38574

Proposed Rules:
17 .....35580, 36229, 38611
20.....38494
32.....35193
216.....35209
223.....35407
600.....37634
622.....37634, 37635
640.....37635
648.....36246
679 .....34852, 38412, 38626

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 JULY 25, 2001

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Medical devices:
- Class I devices; exemptions from premarket notification and reserved devices; published 7-25-01

PERSONNEL MANAGEMENT OFFICE
Retirements:
- Civil Service Retirement System and Federal Employees Retirement System (FERS)—
  - Law enforcement officers and firefighters; special retirement provisions; published 7-25-01

STATE DEPARTMENT
Visas; immigrant documentation:
- XIX Olumpic Winter Games and VIII Paralympic Winter Games, UT; nonimmigrant visa applications; published 7-25-01

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
- Bell; published 6-20-01
- Boeing; published 6-20-01
- Construcciones Aeronauticas, S.A. (CASA); published 6-20-01
- McDonnell Douglas; published 6-20-01
- Raytheon; published 6-20-01

Procedural rules:
- Flight Operational Quality Assurance programs; voluntary implementation; published 6-25-01

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alcoholic beverages:
- Puerto Rico and Virgin Islands liquors and articles; recodification of regulations; published 7-25-01

TREASURY DEPARTMENT
Foreign Assets Control Office
Highly enriched uranium agreement assets control regulations:
- Russian federation; disposal of highly enriched uranium extracted from nuclear weapons; published 7-25-01

Iranian transaction regulations:
- Iran-U.S. Claims Tribunal; custodians of Iranian property interest; referrals; published 7-25-01

TREASURY DEPARTMENT
Internal Revenue Service
Estate and gift taxes:
- Extension to file an estate tax return; published 7-25-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Papayas grown in—
- Hawaii; comments due by 7-30-01; published 5-30-01

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Exportation and importation of animals and animal products:
- Bovine spongiform encephalopathy; disease status change—
  - San Marino, Andorra, and Monaco; comments due by 8-3-01; published 6-4-01
- Foot-and-mouth disease; disease status change—
  - Argentina; comments due by 8-3-01; published 6-4-01
- Rinderpest and foot-and-mouth disease; disease status change—
  - France, Ireland, and Netherlands; comments due by 7-31-01; published 6-1-01

Plant-related quarantine, foreign:
- Corpus Christi, TX; fresh fruits; cold treatment; comments due by 7-31-01; published 6-1-01

AGRICULTURE DEPARTMENT
Rural Housing Service
Program regulations:
- Farm labor housing loan and grant program; technical assistance; comments due by 7-31-01; published 6-1-01

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
- Magnuson-Stevens Act provisions—
  - Domestic fisheries; exempted fishing permits; comments due by 8-3-01; published 7-19-01
- West Coast States and Western Pacific fisheries—
  - Shark; comments due by 7-30-01; published 6-28-01

ENVIRONMENTAL PROTECTION AGENCY
Air programs:
- Federal Nitrogen Oxides Budget Trading Program, emissions monitoring provisions, permits regulation provisions, and appeal procedures; revisions; comments due by 7-30-01; published 6-13-01

Air programs; State authority delegations:
- New Jersey; comments due by 8-2-01; published 7-3-01
- Tennessee; comments due by 8-2-01; published 7-3-01

Air quality implementation plans; approval and promulgation; various States:
- Arizona; comments due by 7-30-01; published 6-29-01
- Illinois; comments due by 7-30-01; published 6-28-01
- Indiana; comments due by 7-30-01; published 6-28-01
- Ohio; comments due by 7-30-01; published 6-29-01
- Wisconsin; comments due by 8-1-01; published 7-2-01

Antarctica; nongovernmental activities; environmental impact assessment; assessment and coordination requirements; comments due by 7-30-01; published 6-29-01

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; comments due by 8-1-01; published 7-2-01
  - National priorities list update; comments due by 8-1-01; published 7-2-01

Water pollution control:
- National pollutant discharge elimination system (NPDES)—
  - Concentrated animal feeding operations; guidelines and standards; comments due by 7-30-01; published 4-17-01

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
- Federal-State Joint Board on Universal Service—
  - Non-price cap incumbent local exchange carriers and interexchange carriers; interstate services regulation; Multi-Association Group plan; comments due by 7-30-01; published 6-29-01
- Individuals with hearing and speech disabilities; telecommunications relay services; comments due by 7-30-01; published 7-19-01
- Interstate Telecommunications Relay Service Fund Advisory Council and Administrator; cost recovery guidelines; recommendations; comments due by 7-30-01; published 7-9-01

Digital television stations; table of assignments:
- Minnesota; comments due by 7-30-01; published 6-14-01

Radio stations; table of assignments:
- Georgia and Texas; comments due by 7-30-01; published 6-26-01
- South Carolina; comments due by 7-30-01; published 7-5-01

GENERAL SERVICES ADMINISTRATION
Federal Management Regulation:
- Federal mail management; comments due by 7-30-01; published 5-29-01

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
- Critical habitat designations—
  - Quino checkerspot butterfly; comments due by 7-30-01; published 6-20-01

Migratory bird hunting:
- Seasons, limits, and shooting hours; establishment, etc.; comments due by 7-30-01; published 4-30-01

National Wildlife Refuge System:
Hunting and fishing—
Refuge-specific regulations; comments due by 8-2-01; published 7-3-01
Wild Bird Conservation Act:
Captive-bred species; approved list; review; comments due by 7-30-01; published 5-29-01

JUSTICE DEPARTMENT
Immigration and Naturalization Service
Immigration:
Aliens—
Legal Immigration Family Equity Act and LIFE Act Amendments; legalization and family unity provisions; status adjustment; comments due by 7-31-01; published 6-1-01

NUCLEAR REGULATORY COMMISSION
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list; comments due by 7-30-01; published 6-29-01
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list; comments due by 7-30-01; published 6-29-01

TRANSPORTATION DEPARTMENT
Coast Guard
Pollution:
Shore Protection Act of l988; implementation—
Municipal and commercial waste; permitting and numbering requirements; comment request; comments due by 8-1-01; published 5-3-01
Ports and waterways safety:
South shores of Oahu, HI; safety zone; comments due by 7-30-01; published 6-28-01

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 8-1-01; published 7-2-01
Britax Sell GmbH & Co.; comments due by 7-30-01; published 5-31-01
CFM International; comments due by 7-31-01; published 6-1-01
Raytheon; comments due by 8-3-01; published 6-5-01
Saab; comments due by 7-30-01; published 6-29-01
Class D and Class E airspace; comments due by 8-2-01; published 6-18-01
Class E airspace; comments due by 7-30-01; published 6-15-01

TRANSPORTATION DEPARTMENT
Federal Motor Carrier Safety Administration
Motor carrier safety standards:
Commercial driver's license standards; requirements and penalties; noncommercial motor vehicle violations; comments due by 8-2-01; published 5-4-01

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Motor vehicle safety standards:
Radiator and coolant reservoir caps; comments due by 7-31-01; published 6-1-01

TREASURY DEPARTMENT
Fiscal Service
Fiscal Management Service:
Automated Clearing House; Federal agency participation; extension of public comment period; comments due by 7-31-01; published 6-1-01

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 657/P.L. 107–19

To authorize funding for the National 4-H Program Centennial Initiative. (July 10, 2001; 115 Stat. 153)

Last List July 9, 2001

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